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A

SKETCH

OF THE

HISTORY OF MARYLAND,

DURING THE

THREE FIRST YEARS AFTER ITS SETTLEMENT:

TO WHICH IS PREFIXED,

A

COPIOUS INTRODUCTION.

BY JOHN LEEDS BOZMAN.

BALTIMORE:

PUBLISHED BY EDWARD J. COALE,

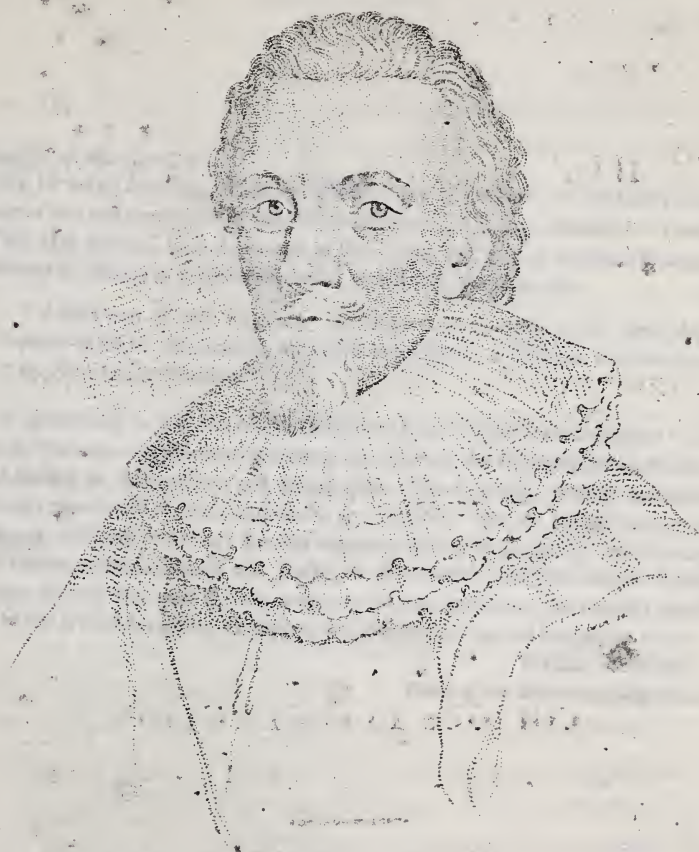
No. 176, Baltimore-street.

1811

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George Calvert

the first Lord Baltimore

*From an Original Painting, in the great gallery
of Sir Francis Bacon Lord Verulam.*



Portrait of George Washington
 by Gilbert Stuart
 1796

District of Maryland, to wit :

BE IT REMEMBERED, That on this first day of October, in the thirty-fifth year of the Independence of the United States of America, *Edward J. Coale*, of the said district, hath deposited in this office, the title of a book, the right whereof he claims as proprietor, in the words following, to wit :

“ A SKETCH of the HISTORY OF MARYLAND, during the three first
“ years after its settlement, to which is prefixed, a Copious Introduction.
“ By John Leeds Bozman.”

In conformity to the Act of the Congress of the United States, entitled “ An act for the encouragement of Learning, by securing the copies of Maps, Charts, and Books, to the authors and proprietors of such copies during the times therein mentioned ;” And also to the act entitled “ An act supplementary to the act entitled, “ An act for the encouragement of Learning, by securing the copies of Maps, Charts and Books, to the authors and proprietors of such copies during the times therein mentioned,” and extending the benefits thereof to the arts of designing, engraving and etching Historical and other Prints.

PHILIP MOORE,

Clerk of the District of Maryland.

10.

PREFACE.

IT will, perhaps, be expected by the public, that some reason should be assigned for publishing an *Introduction* to a History without the history itself. The author has to reply in explanation thereof, that his original intention was most certainly to complete the work he had undertaken. As this design of his has been of long standing, and numerous circumstances have intervened so as to interrupt his progress therein, it would afford but little amusement or satisfaction to the reader to peruse a rehearsal of them here in detail. It will be sufficient to mention, that whenever the author's occupation in life would permit his indulgence in any literary pursuit, that of history always presented to him the strongest attractions. But as it is natural for every man to feel an anxiety to know something of the transactions of his own neighbourhood, rather than of those abroad, so an acquaintance with the history of our native country is a more natural object of desire than that of distant nations. A native of the American States, will always feel an interest in the affairs of any one of them. But contracting the circle of his patriotic sensations to a smaller compass, he finds that the individual state, of which he is a citizen, nay indeed the county and neighbourhood of his nativity, will more particularly claim both his affection and his attention. The citizen of Maryland, however, has hitherto in vain inquired for some information relative to the past transactions of his own individual state. While almost every other state in the Union has had its historian, Maryland, though one of the earliest British colonies, has never yet

had even its first provincial transactions developed to the inquiring reader. Under the influence of these sentiments, the author of this Introduction, about six years past, undertook the task of examining the Provincial Records, at Annapolis, with a view of extracting from them the necessary materials for his design. He soon perceived, that the task of procuring these materials was a much more arduous one than he expected. It was impossible to compile and digest from voluminous books of records, scattered in different offices, where the author would be liable to constant interruptions, any historical work worthy of perusal. He perceived, that he must have either the original books themselves, or full copies of the documents which they contain, in his private apartment, before he could extract from them a recital or narrative of their contents. He takes pleasure, however, in this opportunity of expressing his acknowledgments of the polite attentions and readiness to oblige, which he received from the two gentlemen, who filled the offices of clerk of the Council, and that of the late General Court. But, formidable as the labour of copying was, the author would have readily encountered it, had it not become evident to him, that a residence at Annapolis for a year or two at least, would be necessary for the purpose. Of this his circumstances in life did not at that time permit. He retired, therefore, from his pursuit, with much reluctance, though still cherishing some hope, that it might at some future time be in his power, by a temporary residence at Annapolis, to complete the task he had assigned himself. Before this could be accomplished by him, he received information, that the gentleman, who has obliged the citizens of this state with a most useful work, "The Landholder's Assistant," had undertaken also, a History of the state of Maryland. As he has manifested much judgment and abi-

ility in the execution of the work already published by him, just mentioned, and as he has all the materials either under his own direction, (being register of the Land-office,) or near at hand to him, the public may expect to be amply gratified with his performance. Should, however, the gentleman just mentioned,* not have undertaken the work, or having undertaken it should have since relinquished it, the author of this volume would think himself authorised to pursue his original intentions.

It might not perhaps be improper in this place to suggest to the legislature of the state, or at least to those members of it who may be competent judges of the utility and importance of a faithful history of their native country, that the written memorials of the state, whence only that history can be extracted, being comprized in a few MS. volumes of which no duplicates exist, even should they fortunately escape an accidental destruction by fire, yet are constantly acted upon by the mouldering hand of time. The curious inquirer, who would wish to know something of the causes and origin of many of our political as well as civil institutions, may soon be told, that these reliques of the doings of our ancestors have been considered as useless rubbish, and no longer exist. Might it not, therefore, be suggested, that as the finances of the state are, as we are told, in a very prosperous situation, and the public have much money to spare, some judicious compiler should be employed to arrange and publish such documents remaining on our provincial or state records as would in any way be necessary to form materials for a faithful compilation of our history? A plan of this kind has already been executed with respect to the aggregate history of the several states of the Union, by

* Mr. Kilty, the gentleman here alluded to, died since this work has been in the printer's hands.

Mr. Ebenezer Hazard, which, it seems, was undertaken at the instance of the legislature of the United States. One great excellence which the Art of Printing boasts over that of manuscript, is the preservation of historical materials, by the multiplication of copies. If such a number only of the collection proposed was printed, as would be sufficient to deposit a copy in each of the several public offices of every county in the state, their preservation would be satisfactorily secured. Another advantageous result from this might possibly accrue. It is favourable to the cause of truth, that the materials of history should be accessible to all. Under free governments, both the animosity of political parties, and the fanaticism or bigotry of religious sects are well known to be peculiarly prevalent. It is not enough, that the historian of such governments should have talents for declamation, and should have attained to celebrity in the senate or the forum. He should be one who has accustomed himself to view the scrambles of parties and the prejudices of sects "in the calm lights of mild philosophy." How has the once elevated character of Fox, the English Demosthenes, faded from its former lustre, by one little feeble historical effort—the emanation of party-feelings, while that of the diffident and retired Hume rises daily in importance, and bids fair to be immortal. Besides, the same facts may present themselves to different writers in different points of view. One may state some circumstances attending a transaction, which throw much light on it, while others may omit the same, considering them as immaterial to the purpose. A variety of historians, therefore, contributes much to the preservation of historical truth. Thus a modern historian is enabled at this day to present to the world a more perfect history of Rome, than that of either Livy or Tacitus.

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CHAPTER I.

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INTRODUCTION

TO A

HISTORY OF MARYLAND.

SECTION I.

The effects of Columbus's discoveries on the English nation—Commission to John Cabot and his three sons—John Cabot's death—Sebastian Cabot's voyage—Disputes between the courts of Portugal and Spain, in consequence of Columbus's discoveries—Portuguese discoveries—The Pope's Partition—Cortereal's voyage—Patents for discovery and trade to some merchants of Bristol—Voyages and discoveries of the French—of the Spaniards—Ponce de Leon's discovery of Florida—Luke Vasquez's expedition—Verazzini's voyage—that of Stephen Gomez—English attempts for discovering a North-west passage—Pamphilo Narvez's Grant—Ferdinand de Soto's expedition—Castier's—First attempts of the French to colonise Canada—English attempt to settle Newfoundland—La Roque's attempt to settle Canada—Further proceedings of the English—Fishery of Newfoundland—Pension granted to Sebastian Cabot.

AS Maryland was originally an English colony, to understand fully the early part of its history, it is indispensably necessary to be acquainted, in some measure, with those events which immediately led to its colonisation. This will necessarily require not only a concise detail of such European attempts to form settlements in other parts of North America, as preceded that of Maryland in time, but also a short elucidation of the nature of those reli-

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I.

1492.

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I.

1492.

The ef-
fects of
Colum-
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gious controversies in England, which produced the colonial settlements in New England and Maryland.

It is well known to every one tolerably acquainted with the History of Maryland, that the first discovery of the West Indies, by Christopher Columbus, in 1492, filled all Europe with astonishment and admiration. This brilliant achievement of this renowned citizen of Genoa, under the patronage and auspices of Ferdinand and Isabella of Spain, cast such a lustre on their throne as to excite the envy of most of the monarchs of Europe. It does, however, no small credit to the character of Henry VII of England, their cotemporary, that he listened with a favourable ear to the application of Bartholomew Columbus, in behalf of his brother Christopher, prior to his grand undertaking. But Ferdinand and Isabella had anticipated him. To make some amends to his subjects, among whom this discovery had excited an uncommon spirit of adventure, Henry invited other seamen of known reputation, to enter into his service for similar purposes. It is remarkable, that at this period of time the English nation was much inferior to most other European nations in the science of navigation, though, from the advantages which its insular situation always gave, the contrary might have been expected. Its military glory retained its rank of equality with any; but the inconsiderate ambition of its monarchs had long wasted it on pernicious and ineffectual efforts to conquer France. In succession to which, the civil wars produced by the contest between the houses of York and Lancaster, had, as it were, preyed upon its bowels and exhausted its vigour. The city of Bristol, however, appears

to have been inhabited at that time by some merchants of considerable enterprise and public spirit. Here also, it seems, a certain Giovanni Gaboto, commonly called by the English, John Cabot, a native and citizen of Venice, had long resided. Desirous of emulating the exploits of Columbus, he offered himself to Henry as a person amply qualified to make further discoveries under the English banners. It is to be remembered, that the great object of Columbus, in his first voyage, was not to discover such a continent as that of America, but to explore a more convenient route to the East Indies, which were then supposed to form the grand fountain of all the wealth in the world. As the islands which Columbus discovered, were deemed by him a part of those Indies, and the reports of the vast quantities of gold and silver found among the natives of those islands, had, without doubt, reached England, Henry, whose prevailing passion was avarice, was easily induced to listen to Cabot's proposals. He accordingly, by letters patent, bearing date the 5th of March, in the eleventh year of his reign, (in the year of Christ 1496, according to *New Style**,) "granted to John Cabot and his three sons, Louis, Sebastian, and Sancias, and their heirs, full power to navigate to any country or bay of the sea, east, west, or north, under his banners, with five ships, of such burthen, and manned with as many men as they might choose, at their own cost and charges, to discover such islands, countries, regions, or provinces of any

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1492.

1496.

Commission to
John Cabot and
his three sons.

* See note (A) at the end of the volume.

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“ nation of infidels whatsoever, or wheresoever situated, which were then before unknown to any Christian people ; and as his vassals, governours, lieutenants, and deputies, to subjugate, occupy, and possess such countries or islands, as shall be discovered by them : so that nevertheless they should return to Bristol after every voyage, and that they should pay him a fifth part of the nett profits of such voyage ; granting to them and their heirs, to be free from all customs on any goods or merchandize brought with them from such countries so discovered ; and that no English subject whatever should frequent or visit such countries so discovered by them, without the license of the said John, his sons, or their heirs, or deputies, under the penalty of a forfeiture of their ships and goods ; willing and strictly commanding all his subjects, as well by land as by sea, to be aiding and assisting to the said John and his sons and deputies, in arming and fitting out his ships, to be done at their own expense.”*

* See this patent at large in Hazard's Collections, Vol. I, p. 9.—It may be proper to take notice here of what is alleged in Harris's collection of voyages, (edit. 1748, Vol. 2, p. 190,) that “ the year before this patent was granted, John Cabot, with his son Sebastian, had sailed from Bristol upon discovery, and had actually seen the continent of Newfoundland, to which they gave the name of *Prima Vista*, or *First Seen* ; and upon the report made them of this voyage, the before-mentioned patent was granted.” But as I do not find this circumstance recognised by any historian, except in the obscure assertion made by the authors of the *Mod. Univ. Hist.* Vol. 44, p. 2, “ that Sebastian Cabot was sent by Henry VII, a year before the discovery of Columbus, and, having first dis-

There are some circumstances necessary to be noticed here, which will plainly account for the delay which took place with the Cabots in availing themselves of the benefits of this patent. The restrictive clause in the letters, that the equipment of their expedition was "to be done at their own expense," so consonant to the parsimonious or frugal policy of the monarch who granted them, will readily suggest, that much difficulty might probably occur in the way of these enterprising navigators, before they would be able to procure the means of preparing such equipment out of their own finances. This consideration necessarily leads to point out the real cause of a subsequent grant or license by the same king, on the 3d of February, 13 Hen. VII. (nearly two years after their first patent,) whereby he authorized John Cabot "to seize upon six English ships,* in any port or ports of the realm of England, of 200 tons burthen, or under, with their requisite apparatus," &c. Before the license hereby granted, could be carried into effect, John Cabot died†. But Sebastian, his son, making application to the king, and proposing to discover a north-

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1498.

John Cabot's death.

covered Newfoundland, sailed along the coast as far as Florida;" which certainly is without foundation as to *time* at least, if not *extent*, I have not thought it proper to be inserted in the text. It is possible, however, that those authors might have meant, that Cabot was sent a year before Columbus discovered the *continent* in his third voyage. If so, it is some corroboration of what is said in Harris.

* The words are, "quod ipse *capere* possit," &c. See it at large in Hazard's Collections, Vol. 1, p. 10.

† Harris's Voyage, Vol. 2, p. 190.

SECT. west passage to the Indies, the grand desideratum

I.

1498.

Sebastian
Cabot's
voyage.

of those days, the ruling passion of the king was touched, and he ordered a ship to be manned and victualled for him at Bristol at the royal expense. Some merchants also of that city, fitted out for him at their own charges, three or four other ships. With this little fleet, Sebástian was now ready to undertake his long projected voyage. He accordingly, in May, 1498,* embarked at Bristol for that purpose. Animated by the example of Columbus, he had adopted the system of that great man, concerning the probability of opening a new and shorter passage to the East Indies, by holding a western course. He accordingly deemed it probable, that by steering to the north-west, he might reach India by a shorter course than that which Columbus had taken. After sailing for some weeks due west, and nearly in the parallel of the port from which he took his departure, he discovered a large island, which he called *Prima Vista* (First Seen), and his sailors (being Englishmen) *Newfoundland*; and in a few days he descried a smaller isle, to which he gave the name of St. John's. He landed on both these, made some observations on their soil and productions, and brought off three of the natives. Continuing his course westward, he soon reached the continent of North America, and sailed along it from thence to the thirty-eighth degree of latitude. Their provisions now failing, and a mutiny breaking out among the mariners, they returned to Eng-

* Mod. Univ. Hist. Vol. 44, p. 60. Hume's Hist. of England, at the end of Hen. 7th's reign. Other historians place his voyage in 1497; but see note (A) at the end of this Vol.

land, without attempting either settlement or conquest in any part of this continent.*

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I.

1498.

It may be proper here to observe, that although Columbus might not have actually been the first discoverer of the *continent* of America, yet as he was unquestionably the first discoverer of those islands, now denominated the West Indies, and the first navigator who had the fortitude to cross the Atlantic, he is certainly entitled to all the merit of the first discovery of the continent. For the discovery of the continent, after that of those islands, must, in the nature of things, have been in a short time a necessary consequence. All historians seem to agree, that he first discovered that part of the continent of South America adjacent to the island of Trinidad, on the first of August, 1498, in his third voyage. Supposing the first discovery of the continent of North America by Sebastian Cabot was, as before mentioned, in the same year, to wit, 1498, he probably fell in with the continent only a month or two before Columbus did. Each navigator, however, appears to have been distinct from, and unconnected with the other; and therefore, each entitled to their respective merits, with this

* If the reader should be a native of Maryland, and one of those who place confidence in a right resulting from prior discovery, he will be gratified by the strong probability there is, that Cabot in this voyage first saw and discovered that part of the State of Maryland, bordering on the Atlantic Ocean. If he sailed along the coast from the northward to the 38th degree of latitude, (which is at or near the divisional line between Virginia and Maryland,) he must have had a view of Fenwick's and Assatiegue islands, and possibly looked into Sinepuxent or Chinigoteague inlets.

SECT. I. manifest exception, that Cabot would never, in all probability, have been sent out on his voyage, had not the fame of Columbus's prior discoveries led the way.

Portu-
guese dis-
coveries.

Nor is it easy to deprive the Portuguese nation of a considerable share of merit, which they have just pretences to, in clearing the road, as it were, to the discovery of America. Their indefatigable industry in exploring the coast of Africa during the fifteenth century, in order to get to the East Indies, undoubtedly induced Columbus to think of his western route. And the accidental discovery of Brazil in the last year of that century, by Pedro Alvarez Cabral, demonstrates, that in the course of a few succeeding years, chance would have thrown on that commander and the Portuguese nation, all the honour and fame which Columbus acquired by his own personal sagacity.*

Dispute
between
the courts
of Portu-
gal and
Spain, in
conse-

Immediately on the return of Columbus from his first voyage, in 1492, the Portuguese, who had discovered and possessed the Azores, claimed also, in virtue thereof, as well as by a former grant of the pope,† all such newly discovered islands and coun-

* Harris's Voyages, Vol. 1, p. 666. Robertson's Hist. of America, Vol. 1, p. 214.

† This bull of the pope was made in 1444, through the intercession of prince Henry of Portugal, so celebrated for promoting the Portuguese discoveries along the coast of Africa. The tenure of this grant of the pope to the crown of Portugal, was, an exclusive right to all the countries, which the Portuguese should discover, from cape Ann, on the coast of Africa, to the continent of India. Harris's Voyages, Vol. 1, p. 664. Mod. Univ. Hist. Vol. 9, p. 246. Robertson's Hist. of America, Vol. 1, p. 69.

tries as had been visited by Columbus. Their catholic majesties, by the advice of Columbus, applied to the pope to obtain his sanction of their claims, and his consent for the conquest of the West Indies. The Spanish queen being a niece of the king of Portugal, he was induced to agree to a reference of their dispute to the pope. The pope then in the chair, was Alexander VI, a Spaniard by birth, and from this circumstance as well as the general depravity of his character, was not perhaps so impartial a judge as might be wished. Readily acceding to the proposal, he, by a bull, bearing date the third of May, 1493, made the celebrated line of partition, whereby he granted to their catholic majesties, all the islands and countries already discovered, or to be discovered, which should lie westward of a line drawn from the north to the south pole, at the distance of one hundred leagues westward of the Azores and Cape Verde Islands, and which had not been actually possessed by any Christian king or prince, on or before the first day of the same year 1493.* Although the king of Portugal

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Colum-
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coveries.

The
pope's
partition.

* See this bull at large, in the original Latin, in Hazard's Collections, Vol. 1, p. 3. The curiosity of a free American citizen of the United States, may perhaps be excited to a desire to know a little of the character of a man, who once had the power of making a grant of the land they live in. He is thus spoken of by *Guicciardini*, an Italian historian of great estimation:—In his manners he was most shameless; wholly divested of sincerity, of decency, and of truth; without fidelity, without religion; in his avarice, immoderate; in his ambition, insatiable; in his cruelty, more than barbarous; with a most ardent desire of exalting his numerous children, by whatever means it might be accomplished; some of whom

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1498.

had agreed to the reference, he was dissatisfied with this partition. The subject was, therefore, referred again to six plenipotentiaries, three chosen from each nation, whose conferences issued in an agreement, that the line of partition, in the pope's bull, should be extended two hundred and seventy leagues further to the west; that all westward of that line should fall to the share of the Spaniards; and all eastward of it to the Portuguese: but that the subjects of their catholic majesties might freely sail through those seas belonging to the king of Portugal, holding through the same a direct course.*

Notwithstanding this apparent reconciliation between the two contending nations, and their modest compromise for half the world, the Portuguese, having reluctantly agreed to it, did not continue in that respect for the pope's grant, or the partial confirmation of it by the before mentioned referees, so long as might have been expected from that nation.

1500.
Corte-
real's voy-
age.

In the year 1500, one Caspar de Cortereal, a Portuguese of respectable family, inspired with the resolution of discovering new countries, and a new route to India, and probably under the influence of the jealousy of his nation as to the Spanish incroach-

were not less detestable than their father." See Roscoe's Pontificate of Leo X, Vol. 1, p. 196. It cannot be asserted, however, that this pope Alexander was a worse man than Henry the eighth of England, the great royal reformer. What ornaments to Christianity are such characters!

▪ This agreement was made the 7th of June, 1493. It was sealed by the king of Spain, 2d of July same year; and by the king of Portugal on the 27th of February, 1494. Mod. Univ. History, Vol. 9, p. 385-6. Holmes's American Annals, Vol. 1, p. 9.

ments, and in spite of the donation of the pope, sailed from Lisbon, with two vessels, at his own cost. In the course of his navigation he arrived at Newfoundland, at a bay, which he named Conception-bay ; explored the whole eastern coast of the island, and proceeded to the mouth of the great river of Canada, the St. Lawrence. He afterwards discovered a land, which he at first named Terra Verde, but which, in remembrance of the discoverer, was afterwards called Terra de Cortereal. That part of it, which being on the south side of the fiftieth degree of north latitude, he judged to be fit for cultivation, he named Terra de Labrador. Returning, and communicating the news of his discovery to his native country, he hastened back to visit the coast of Labrador, and to go to India through the straits of Anian, which he imagined he had just discovered. Nothing, however, was afterwards heard of him. It is presumed, that he was either murdered by the Esquimaux savages, or perished among the ice. On this disastrous event, a brother of Cortereal, undertook the same voyage ; most probably in search of his brother : but he is supposed to have met with a similar fate, for he was heard of no more.* Al-

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I.

1500.

* Holmes's American Annals, Vol. 1, p. 25. Holmes cites, among the authorities for the foregoing account, Harris's Voyages, Vol. 1, p. 270. After a careful search through both volumes of that work, I have not been able to find any of the above particulars relative to Cortereal's voyage ; but as it appears from Holmes's Index of authors cited by him in the course of his work, printed at the end of his second volume, that he used the edition of Harris's Voyages published in 1705, and the one here used is of the edition published in the years 1744 and 1748 ; it is possible that this voyage might

SECT. though these voyages were undertaken by individuals, and not by the royal authority of Portugal, yet as these expeditions seem to have been fitted out openly, and probably must have come to the knowledge of the sovereign power of the Portuguese nation, and were not prohibited by them, they may therefore be considered as a national transgression of the interdicted limits prescribed by the pope. This short notice of them seemed necessary to be made, in order to illustrate more fully the early discoveries of the northern parts of the continent of America.

1502.
Patents
for discovery and
trade, to
some merchants of
Bristol.

In England also, as little regard seems to have been paid to this celebrated papal partition, although that country was still under the ecclesiastical power of the Roman pontiff. Some schemes of further discovery and commercial enterprise having been formed about this time by some merchants of Bristol, in conjunction with some Portuguese gentlemen, patents for that purpose were granted to them by Henry VII, in the sixteenth and eighteenth years of his reign, without noticing the before men-

have been designedly omitted in this last or second edition of that work. In Vol. 2, p. 401, (edit. 1748), where the north-west passage is treated of, there is this short remark, "One Cortereal, a Portuguese, is also said to have passed this strait, and to have bestowed upon it his name; but how, when, or where, is not to be inquired, or at least to be resolved." The authors of the Modern Universal History, in many parts of their work, particularly in Vol. 11, p. 364, pass high encomiums on this last edition of Harris's Collection of Voyages, though they do not mention the editor's name except by description, as "the sensible author of the Present State of Europe."

tioned line of division.* But these grants do not appear to have ever been productive of any effect; for which, some probable reasons may be suggested. Henry was then engaged in a war with Scotland, and an insurrection in his own kingdom. He was also about forming an alliance with Ferdinand and Isabella of Spain, by the marriage of his son to their daughter, which might induce him to discountenance undertakings necessarily disagreeable to them. To which may be added also, that agreeably to the characteristic genius of Henry, he was not so liberal as to give one penny towards the enterprise. Nothing further appears to have been done by the English nation, in pursuance of Cabot's discoveries, during the remainder of his reign.

Amidst the enthusiasm excited in Europe by the discovery of America, it was not to be expected that so great a nation as the French would remain totally inactive. It is said, indeed, that they pretend to a more early discovery of the northern part of America, than that of the English under Cabot. Though this appears to have but a slender foundation, yet it seems to be very well authenticated, that as early as the year 1504, some adventurous navigators from Biscay, Bretagne, and Normandy, in France, came in small vessels to fish on the banks

SEOT.

I.

1502.

1504.

Voyages
and disco-
veries of
the
French.

* See the later patent at large in Hazard's Collections, Vol. 1, p. 11, in which recital is made of the prior one, dated May 19th, 16 Hen. VII. In each of these patents a clause of domination was inserted to the three Portuguese gentlemen concerned, in order to prevent them from being considered as foreign merchants, liable to duties and disadvantages in trade from which English subjects were exempt.

SECT. of Newfoundland. They are alleged to be the

I.

1504. first French vessels that appeared on the coasts of North America ; and from their own account, their fishermen are said to have discovered at this time the grand bank of Newfoundland. In a year or two afterwards, (1506,) *Jean Denys*, a native of Rouen, sailed from Harfleur to Newfoundland, and published, on his return, a map of the gulf of St. Lawrence, and of the coast of the adjacent country.
- 1506.
1508. Also, in 1508, Thomas Aubert, in a ship belonging to his father, Jean Ango, Viscount of Dieppe, made a voyage from thence to Newfoundland ; and proceeding thence to the river St. Lawrence, is said to be the first who sailed up that great river to the country of Canada, and on his return carried to Paris some of the natives.*

The same causes operating on the conduct of Henry VIII, for the first three or four years of his reign, as in that of his father, they would naturally in like manner paralyze any efforts on the part of the English nation in pursuance of Cabot's discoveries. In the mean-time, however, the Spaniards were going on rapidly in their discoveries and conquests in the islands and southern part of America. One incident of which, it may not, perhaps, be unnecessary to mention, as it bears some relation to our present inquiries :—a certain Juan Ponce de Leon, being a Spanish officer of some note in the island of Hispaniola, shortly after the conquest and settlement of that island, had obtained leave to conquer the

1512.
Ponce de
Leon's
discovery
of Florida.

* Mod. Univ. Hist. Vol. 39, p. 406. Holmes's Annals, Vol. 1, p. 33, 35, 37.

neighbouring island called Porto Rico. After performing this, he was for some cause displaced from his office of governor thereof. But, having thereby acquired considerable wealth, he was enabled to fit out some vessels, at his own expense for further discoveries. He was induced to this, not only by that chivalrous spirit of adventure, which appears to have been then, among the Spaniards, the fashion of the times; but also, as it is said, to gratify a romantic curiosity, in ascertaining the truth of a traditional report, which had long existed among the aborigines of the island, relative to the extraordinary virtues of a certain river, rivulet, or fountain in the island of *Bimini*, one of the *Lucayos*, which had the property of renovating those who bathed in its waters, into their former youth and vigour. Whatever the motives of his voyage might have been, it seems, that in pursuance of his schemes, he fell upon that part of the coast of North America called by him *Florida*, and which has ever since retained that name.* But it does not appear that he explored that coast more northerly than the river formerly called *St. Mattheo*, now *St. Juan's* or *St. John's* in East Florida, and which is a little to the southward of what is now the boundary line between the United States and the Spanish territories.†

The reader will perceive, that at this period of time, (1512,) even after Ponce de Leon's voyage, there remained a vast space of the continent of

* Called so because it was first discovered by the Spaniards on Easter day, which they call *Pasqua Florida*, *Mod. Univ. Hist.* Vol. 39, p. 123, and Vol. 44, p. 41.

† Harris's *Voyages*, Vol. 2, p. 57.

SECT. North America along the Atlantic, (from the 30th
 I. to the 38th degree of North latitude, from Florida
 1512. to the most southern part of the coast of Maryland,) which had never been visited by any European. Although the English court long afterwards, both at the time of granting the patent for Carolina, in 1663, and of their claim to Florida in 1762, pretended that Cabot's discoveries included both Carolina and Florida, by which, through right of prior discovery, they claimed to the gulf of Mexico,* yet as no authentic history can be found to show that Cabot ever descended so far to the south,† or indeed any lower than the 38th degree of north latitude, that right must remain unsupported, unless the discovery of a part of the continent of North America could be construed as giving right to the whole of it. But in such an extensive continent as this, such a right must appear at once futile and vain, and *the right of prior occupation*, or settlement, seems in such case to be the only rational right to be relied on.‡

The Spaniards did not, however, altogether neglect this discovery of *Ponce de Leon*. Being in want of labourers to work their mines in St. Domingo, they formed the project of kidnapping the natives on this coast for that purpose. Accordingly

* Mod. Univ. Hist. Vol. 40, p. 419. Oldmixon's British Empire in America, Vol. 1, p. 325.

† This assertion I find made by Oldmixon in the place just above cited from him, and as it seems to be well founded, it is here adopted. But see a further discussion of this subject in note (B) at the end of this volume.

‡ See note (C) at the end of the volume.

in the year 1520, two ships were fitted out from St. Domingo, under the command of a Spaniard whose name was Luke Vasquez. He proceeded to that part of the continent of North America which was then supposed by the Spaniards to be a part of Ponce de Leon's discoveries, and as denominated by him Florida: but the place at which Vasquez arrived, was, it seems, that now called St. Helena, a small island at the mouth of Port Royal harbour, in the southern part of South Carolina, in about 32°, 15' north latitude. The natives, it is said, seeing his ships as they drew near the land, with expanded sails, never having seen the like before, took them for two monstrous fishes driving towards the shore, and ran in crowds to view them; but on a nearer view of the Spaniards, after they had landed, these simple natives were so struck with their clothing and appearance, that they fled with the greatest marks of consternation. Two of them, however, were taken; and the Spaniards carrying them on board gave them victuals and drink, and sent them back on shore clothed in Spanish dresses. This insidious kindness had its desired effect with the unsuspecting savages. The king of the country admired the Spanish dresses and hospitality so much, that he sent fifty of his subjects to the ships with fruits and provisions; ordered his people to attend the Spaniards, wherever they had a mind to visit the country; and made them rich presents of gold, plates of silver, and pearls. The Spaniards, having learned all they could concerning the country, watered, and re-victualled their ships, and inviting a large number of their generous landlords on board, after ply-

SECT.

I.

1520.

Luke Vasquez's expedition.

SECT.

I.

1520.

ing them with liquor, they weighed anchor and sailed off with them. This scheme, however, had not all the success its perpetrators expected. Most of the unhappy savages either pined themselves to death, or were lost in one of the ships that foundered at sea; so that only a very few survived for the purposes of slavery. Vasquez, notwithstanding his loss, having acquired some reputation from the expedition, renewed, in the years 1524 and 1525, his attempts to carry on a slave-trade from that part of the continent. But, one of his ships being wrecked near St. Helena, and two hundred of his men being cut off by the natives, he was so discouraged, that he returned to Hispaniola, and died, it is said, of a broken heart.*

Some schemes for discovery and settlement in America, were now again revived in France. After a lapse of about fifteen years since the expedition of Aubert to Canada, in 1508, before mentioned, and the accession of Francis the first to the throne of France, that excellent monarch began to think of making establishments on the American coast.

1524.
Verazzi-
ni's Voy-
age.

With this view he fitted out, in the year 1523, Giovanni (or John) Verazzini, a Florentine, to prosecute further discoveries in the northern parts of America. History has recorded but little worth mentioning of any of the three several and successive expeditions undertaken by him, except the considerable extent of his voyage along the coast of North America. He is said to have explored, with considerable accuracy, a part of the coast of Flori-

da; and the whole extent of his discoveries was about five hundred leagues of the American coast, from the thirtieth to the fiftieth degree of north latitude, all of which he denominated New France. He is supposed to have first arrived in this his second voyage, in the year 1524, off that part of America, where the town of Savannah, in Georgia, now stands; "a new land," says he, "never before scene of any man either ancient or moderne."* Having sailed to the southward as far as the 30th degree of north latitude, he then turned back and sailed northwardly to the 34th degree, and thence still northwardly until he found the coast "trend

SECT.

I.

1524.

* This assertion of Verazzini himself, is extracted by Mr. Holmes in his *Annals*, Vol. 1, p. 68, from *Hackluyt's Voyages*, where Verazzini's own account, which he sent to the king of France, immediately on his return to Dieppe, in July 1524, is published. It is some presumptive proof that Cabot, in the voyage in which he discovered North America, did not sail so low to the southward as Georgia, much less to Cape Florida as before mentioned. As twenty years had then elapsed since Cabot's voyage, it is not probable that Verazzini was ignorant of the extent of it. It may be said, indeed, that Cabot might have coasted the continent down to Cape Florida, and not have seen nor mentioned the Savannah river, or its adjacent lands. But Verazzini's expression, as above, seems to imply that Cabot never *could* have seen it, and therefore never passed it. It must be acknowledged, however, that there is considerable probability that the Savannah river must have been discovered by or known to Vasquez, in some one of his voyages before mentioned, he being under a necessity of passing close by it in going to St. Helena, which is but a little further to the northward of it. But as these voyages of Vasquez were about the same time with this of Verazzini, and the French and Spaniards were then at war, it is not probable that Verazzini had any knowledge of them.

SECT.

I.

1524.

towards the east;" here (which is supposed to be on the coast of New Jersey or Staten Island) he attempted to send his boat ashore, but was prevented by the roughness of the sea. In latitude 40° he entered a harbour, which is supposed to be that of New York. Proceeding thence to the eastward, he found a well cultivated island, (supposed to be Nantucket or Martha's Vineyard) and a little beyond it a good harbour. He proceeded thence still northwardly along the coast of the country, to 50° , nearly to the most northern part of the coast of Newfoundland; and then, on account of the failure of his provisions, he returned in July, 1524, to Dieppe, in France. He afterwards undertook a third voyage, in which he and all his company perished by some unknown disaster, and were no more heard of.*

1525.

Stephen
Gomez's
voyage.

About this time also a voyage was made by the Spaniards, which is said to be the first performed by that nation, in which the whole of that part of the coast of North America, now composing the United States, was attempted to be explored by them. One Estevan Gomez, (called by the English Stephen Gomez,) a Portuguese by birth, who, on account of the great reputation he had acquired as an able navigator, had been selected to accompany Ferdinand Magellan, then in the service of Spain, in his remarkable voyage in the year 1520, wherein he discovered the Straits which have ever since borne his name; and who, perfidiously deserting Magellan, soon after they had entered the South

* Harris's Voyages, Vol. 2, p. 348. Mod. Univ. Hist. Vol. 39, p. 406. Holmes's Annals, Vol. 1, p. 68.

Seas through those Straits, had returned back to Spain, probably jealous of the honour which he perceived Magellan was about acquiring, proposed, soon after his return to the emperor Charles V, the discovery of a more direct passage into the South Seas than that found by Magellan, through the northern part of America. But the emperor, for many reasons which appear to have induced him at that time to discountenance an opposition to the Portuguese claim of the Moluccas, and at the same time, perhaps, disgusted with Gomez's base desertion of Magellan, did not listen to his application in so favourable a manner as he expected. He therefore made proposals of the same nature to the count de Aranda, a Spanish nobleman, and some others, to induce them to send him by this supposed passage to the Moluccas. Less tender of the Portuguese rights than the emperor, and willing to avail themselves of this man's abilities as a pilot, they agreed to furnish him with a ship for that purpose. Accordingly (in the year 1525, as it appears,) Gomez sailed to Cuba, and thence in search of this passage he coasted the continent northward, as high as Cape Ras, at Newfoundland. His heart now failing him, as it is said, or more probably chagrined at not succeeding in finding the much-desired passage, he returned to Corunna, carrying with him only some of the unhappy natives, whom he had captured somewhere on the coast. An unlucky jest, which occurred immediately on his return, injured both his reputation and the credit of the famed north-west passage. When the ship came into port, somebody asked, what they had on board?

SECT.

I.

1525.

SECT. A seaman answered, *Esclavos*—slaves, meaning
 1.
 1525. the poor Indians. A person on shore, not far from
 the ship, mistaking the sound for *Clavos*—cloves,
 and setting off immediately for the Spanish court,
 reported there that Gomez had returned with a car-
 go of spice from Moluccas. When the mistake
 came to be discovered, the disappointment, as it
 generally happens when hopes are unreasonably ele-
 vated, produced on the contrary equally unreason-
 able ridicule and derision on his voyage. The men-
 tion of it here, however, serves to illustrate the more
 early discoveries of the continent of North Ame-
 rica.*

1527. This delusion of a north-west passage to the
 English attempt to East-Indies, which had thus in Spain prompted this
 discover a north- expedition, was at the same time operating in other
 west pas- parts of Europe. As Henry the eighth of England,
 sage. among other of his inordinate passions, was often
 actuated with the avidity of wealth, he was induced
 to listen to the advice of a Mr. Robert Thorne, an
 English merchant, who had long resided at Seville,
 in Spain, and had there acquired some knowledge of
 the East-India trade. This gentleman represented
 to Henry the advantages which his kingdom might
 derive from such a commerce, and proposed that
 endeavours should be made to find out a passage to
 the East-Indies, by the north-west parts of Ame-
 rica.† The king, on mature deliberation, gave or-
 ders for two ships to be fitted out for that purpose.
 They sailed on the 20th of May, 1527; but the
 voyage was productive of no discovery of import-

* Mod. Univ. Hist. Vol. 9, p. 388, 575.

† Mod. Univ. Hist. Vol. 10, p. 11, 12.

ance. One of the ships was lost in the Gulf of St. Lawrence, and the other returned in the month of October following, to England. One circumstance attending this voyage of discovery, is perhaps worth mentioning. The king ordered, that "several *cunning* men" should embark in the voyage. The writer, who mentions this,* explains them to mean,— "persons skilled in the mathematics; who, with the common sort of people, passed now, and long after, for *cunning* men and conjurers." By an uncommon association for those days, one of these *cunning* men, it seems, was a priest,— "a Canon of St. Paul's in London, who was a great mathematician, and a man indued with wealth."†

SECT.

I.

1527.

To return to the Spaniards:—Notwithstanding their disappointment in Vasquez's expedition before mentioned, they were not altogether discouraged from pursuing their discoveries in Florida. In about four years afterwards, (in 1528,) Pamphilo Narvez, the same commander, it would seem, who a few years before had been ungenerously sent by Velasquez, governour of Cuba, to supersede the great Cortez in his important conquest of Mexico, which he was just at that time completing, obtained from his catholic majesty, the emperor Charles V, a grant of "all the lands lying from the River of Palms to the cape of Florida."‡

1528.

Pamphilo
Narvez's
grant.

* Harris's Voyages, Vol. 2, p. 192.

† Hackluyt's Voyages, cited in Holmes's Annals, Vol. 1, p. 75.

‡ The above description of Narvez's grant is taken from Holmes's Annals, Vol. 1, p. 75, who appears to have extracted it from the commission as in *Purchas's Pilgrimage*, which he there cites. The *Rio de las Palmas*, or River of Palms,

SECT.

I.

1528.

Narvez, in pursuance of his grant, fitted out a powerful armament to conquer the country, with which he landed somewhere on the western side of the cape of Florida, in the month of April, 1528. It does not appear that he explored any part of the continent at any great distance from the coast bordering on the Gulf of Mexico. His expedition was entirely unsuccessful; and he and all his men perished miserably, except a very few, who, after undergoing inexpressible hardships, found their way to Mexico.* His grant, however, serves to recognize the Spanish claim at this early period of time, to a most extensive part of the southern coast of North America, comprehending a considerable portion of Louisiana, particularly the most valuable part of it to the United States—the territory of New Orleans.

1539.

Ferdinand
de Soto's
expedi-
tion.

Before we quit our observations on the progress of the Spaniards in the southern part of North America, we must trespass a little on the order of time, in briefly mentioning a subsequent expedition of that nation, in about ten years after that of Narvèz, for making a conquest of Florida. Ferdinand de Soto, who was governour of Cuba, received from Charles V, the title of Marquis of Florida, with authority as we may suppose, to acquire that country by conquest. He accordingly, on the 12th of May, 1539, embarked three hundred and fifty horse, and nine hundred foot, on board of nine ships, at the empties itself into the Gulf of Mexico, in that part of the coast thereof now called, the New Kingdom of Leon. The mouth of the river is in about 25° of north latitude.

port of Havanna; the most formidable armament of Europeans, that till then had appeared in North America. Pursuing his course to Florida, he disembarked on the 25th of the same month, at the bay of *Spiritu Sancto*, which lies on the western side of the peninsula of East Florida, on the Gulf of Mexico. His route from thence seems to have been in various directions from one Indian tribe to another, as they were then scattered throughout that part of the continent now called the Floridas; and from the length of some of his marches, as mentioned in the account of his expedition, he must have penetrated also far into Georgia, and what is now called the Mississippi Territory, among the Creeks and Cherokees: who are probably the remains of those populous and flourishing tribes of the natives, who are so pompously described by the famous Inca Garcilasso de la Vega, one of the historians of this expedition, and who probably felt a partiality for those, whom he might consider as his countrymen, and consequently a natural indignation at the barbarous usage of them practised on this occasion by Soto. After a series of adventures, experienced by himself and his army, which have the appearance more of romance than reality, during a period of almost five years, and having lost the greater part of his armament, he died of a fever on the banks of the Mississippi; on which event, the officer next in command, prudently contrived to conduct the miserable remnant of them, by water, along the shores of the Gulf, to Panuco, in the kingdom of Mexico. "Thus," says the historian, "ended this expedition, in ruin and poverty to all who were

SECT.

1.

1539.

SECT. concerned in it; nor did they leave a Spaniard in
 I. all Florida.”*

1539.

We may now attend to the proceedings of the French, in the northern parts of the American continent, when they first began to make serious attempts to form settlements in Canada. Although the loss of Verazzini had discouraged them, for a few years, from fitting out ships for discovery in America, yet, agreeably to the genius and character of that nation, their accustomed activity and energy on such occasions, soon again revived. A certain Jacques Quartier, (called by the English, James Cartier,) a native and an experienced pilot of St. Malo, was prevailed upon by admiral Cabot to undertake another expedition. He accordingly, on the 20th of April, 1534, sailed from that port under a commission from the French king; and on the 10th of May following, he arrived at cape Bonavista, in Newfoundland. Although in cruising along that coast to the southward, he found many commodious harbours, yet the land was so uninviting, and the climate so cold, that he directed his course to the Gulf of St. Lawrence, and entered within a bay there, which he called, Le Baye des Chaleurs, on account of the sultry weather which he there experienced, and which has been sometimes since called Spanish Bay.†

1534.
 Jacques
 Quartier's
 voyage.

It may, perhaps, gratify the curiosity of those who are amused with the origin of names, to take

* Mod. Univ. Hist. Vol. 40, p. 381.

† Harris's Voyages, Vol. 2, p. 349. Mod. Univ. Hist. Vol. 39, pa. 407.

notice here of a traditional report, mentioned by some writers, that the Spaniards had long before this voyage of Cartier, visited this coast, but finding no signs of gold or silver, they hurried to get off again, crying out in the Spanish language, *Aca Nada!* that is, There is nothing here! These words the Indians retained in their memory, and when the French now visited the country, and landed, they were saluted by the natives with the cry of *Aca Nada! Aca Nada!* this the French mistook for the name of the country, and have ever since called it *Canada*. The writer from whom this is taken, observes, that this is a very strange derivation, but as he found it in the best French authors, he thought it worth setting down.*

SECT.

I.

1534.

Leaving the bay of Chaleurs, Cartier landed at several places along the coast of the Gulf, and took possession of the country in the name of his most Christian majesty. After which, he returned to France, where he arrived on the 5th of September, 1534.

Cartier's report to the French monarch, of his proceedings, was so favourably received by him, that it was now resolved to attempt the settlement of a colony in the country which he had visited. He was accordingly furnished with three large ships for that purpose, and sent out again with a sufficient number of colonists; among whom were many young men of distinction, who were desirous of accompanying him in the character of volunteers. He arrived in the Gulf on the 10th of August, 1535,

1535.

First attempt of the French to colonise Canada.

SECT. and because that was St. Lawrence's day, he then
I. gave it the name of the Gulf of St. Lawrence, which

1535. name was subsequently extended to the river, and which both retain to this day. Passing by an island, to which he gave the name of Assumption, since called Anticosti, he sailed up the Saguenay, a river emptying into that of St. Lawrence. Returning from thence, and proceeding up the river St. Lawrence, he passed a small island, to which he gave the name of Isle aux Cuodriers, Isle of Hazels, from the number of those trees growing on it ; and afterwards came to another island so full of vines, that he called it the Isle of Bacchus ; but it has since acquired the name of the Isle of Orleans. He had in his last voyage, the precaution to carry two of the natives with him to France, where they learned as much of the language, as enabled them now to serve as interpreters between him and their countrymen. Sailing further up the St. Lawrence, he entered a small river, where he had an interview with an Indian chief, whose name was Donnacona, and where he was informed of an Indian town called Hochelaga, which was deemed the metropolis of the whole country, and situated in an island now known by the name of Montreal, near to which it would seem he then was. The inhabitants here, who are supposed to have been the Hurons, the most tractable of all the Indians then in Canada, treated Cartier and his attendants with much hospitality, expressing at the same time astonishment at their persons, dress, and accoutrements. He had at this time with him only one ship and two long boats, having left the rest at St. Croix, a port in the river of St. Lawrence, to

which port he returned, and there spent the winter. SECT.
 The severe cold of the climate, together with a I.
 more probable cause; the use of salt provisions, 1535.
 brought on them the scurvy, with which he and
 his people would have perished, it is supposed, had
 they not, by the advice of the natives, used a decoction of the bark and tops of the white pine. On
 the approach of spring, Cartier prepared to return
 to Europe. Whatever other excellencies of character he might have possessed, gratitude does not
 appear to have been a prevalent sentiment with him.
 He was ungenerous enough to kidnap his Indian
 friend, Donnacona, and carry him to France, where
 he arrived in the spring of 1536.*

As Henry VIII, and Francis I, were at this time
 upon the very best terms, and as neither of them
 expected to draw much immediate wealth from
 their North American expeditions, it was natural
 that they should not suffer that harmony, which then
 subsisted between them, to be interrupted by the
 feeble attempts which the subjects of each were
 then carrying on for the establishment of colonies
 in America. In corroboration of this it may be
 observed, that such establishments were with Henry
 but secondary objects; for, his principal desire was
 to find out a north-west passage, so that, agreeably
 to his imperious temper, he might have a way of his
 own to the East Indies, and not be obliged to follow
 the route either of the Spaniards or Portuguese. It
 was this inclination of the king, that indirectly produced a spirit in the English nation, at this time,

* Harris's Voyages, Vol. 2, p. 349. Mod. Univ. Hist.
 Vol. 39, p. 408.

SECT. for discoveries and settlements in the northern parts
I. of America, notwithstanding the many difficulties

1536.
English
attempt to
settle
New-
foundland.

Accordingly a Mr. Hore, a merchant of London, a man of considerable estate, of an athletic constitution and undaunted fortitude, and addicted to the study of the sciences of geography and astronomy, resolved to undertake a voyage, and attempt a settlement in Newfoundland. He no sooner made his intention known, than he received all the countenance and encouragement from the crown that he could expect; and as this gave much credit to the expedition, so in a short time many young gentlemen of good fortunes and distinguished families, offered to share both the expense and dangers of the undertaking. Among these were some men of the learned professions, particularly a Mr. Thomas Butts, son of Sir William Butts, the king's first physician, and a Mr. Rastal, brother to Serjeant Rastal, the eminent special pleader. About the end of April, 1536, all things were ready, and the whole of the companies of both ships, amounting to one hundred and twenty, mustered at Gravesend, where, with much ceremony, they embarked. They soon after sailed, and arrived in the space of two months at cape Breton; from whence they sailed round a great part of Newfoundland, to Penguin island. They afterwards went on shore upon the east side of Newfoundland, where they staid till their provisions were nearly exhausted. Being then afraid to trust themselves at sea in such a condition, they delayed going on board till they were in such distress, that they began secretly to murder

and eat one another ! This horrid practice coming to the knowledge of their captain, or governour, he, by a most judicious and pathetic speech, brought them to resolve rather to live upon grass and herbs, than to subsist any longer by this detestable method. But it happened soon after, that a French ship put in there, well manned and well victualled, of which the Englishmen resolved to take advantage ; and therefore, watching a fair opportunity, they possessed themselves of the French ship, and leaving their own, sailed directly for the coast of England. They returned safely ; but some of them so much altered by their fatigues, that their friends did not know them again ; particularly young Mr. Butts, whose parents could not recognise him, but by a mark on his knee. Another circumstance relating to this unfortunate enterprise, is mentioned also, as redounding much to the credit of Henry VIII. The Frenchman, whose ship had been thus taken, came to England not long afterwards, to complain of the violence committed upon them. King Henry examined very minutely into the affair, and finding that extreme want was the sole cause of an action, otherwise inexcusable, he satisfied the French to the full extent of their demands, out of his own coffers, and pardoned in his own subjects that wrong, which necessity forced them to commit.*

The accounts which had been given in France of the before-mentioned voyage of Cartier to Canada, had, according to some writers, made an unfavourable impression on both the nation and its

* Harris's Voyages, Vol. 2, p. 192.

SECT. monarch. Not being able to produce either gold

I.

1540.

La Roc-
que's at-
tempt to
settle Ca-
nada.

or silver, all that this unfortunate gentleman could urge about the utility of the settlement and the fruitfulness of the country was treated with neglect by the public. Some individuals, however, appear to have cherished a different opinion. For, in about four years after Cartier's expedition before mentioned, the project of settling Canada began again to be talked of, and a gentleman of Picardy, whose name was Francis de la Rocque, Lord of Roberval, undertook to accomplish this design. To qualify him for this thing Francis I, by letters patent dated January 15th, 1540, erected him viceroy, and lieutenant-general in Canada, Hochalaga, Saguenay, Newfoundland, Belle-isle, cape Breton and Labrador, giving him the same power and authority in those places that he had himself. This gentleman, who had a good estate, fitted out two ships at his own expense, and prevailed upon James Cartier, by the large promises he made him, to undertake another voyage to Canada. La Rocque not being ready for embarkation himself, he sent Cartier with five ships before him, having previously obtained for him a royal commission as captain-general.* Cartier commenced this voyage in May, and after encountering many storms,

* This commission is inserted entire in Hazard's Collections, Vol. 1, p. 19, 21. It is worthy of remark, that in this commission to Cartier, power is given to him to choose fifty persons out of such criminals in prison as shall have been convicted of any crimes whatever, except treason and counterfeiting money, whom he should think fit and capable to serve in the expedition. See an account of a settlement of convicts on the Isle of Sables, by the French, in the year 1598, post. p. 94.

landed in Newfoundland, on the 23d of August. Roberval not arriving, he proceeded to Canada; and on a small river four leagues above the port de St. Croix, and at no great distance from where Quebec now stands, he built a fort and began the first settlement in Canada, which he called Charlebourg. Cartier having waited there in vain above a year, for the arrival of the viceroy Roberval, and having nearly consumed all his provisions, and now dreaded an attack from the savages, set out in the year 1542 on his return to France. Roberval, with three ships and two hundred persons, coming to recruit the settlement in Canada, met him at Newfoundland, and would have obliged him to return to his province; but Cartier eluded him in the night and sailed for Bretagne. The viceroy proceeding up the river St. Lawrence four leagues above the island of Orleans, and finding there a convenient harbour, built a fort, and remained over the winter. It is probable that he returned to France in the next year; for we find him again, in the year 1549, embarking for the river St. Lawrence, accompanied by his brother and a numerous train of adventurers; but they were never heard of afterwards. With them expired, or at least ceased for many years, all the hopes which had been conceived in France of making settlements in America.*

SECT.
I.
1540.

* Harris's Voyages, Vol. 2, p. 349. Mod. Univ. Hist. Vol. 39, p. 408. It seems to be alleged here, in the Mod. Univ. Hist. that, notwithstanding this loss of Roberval and his adventurers, some few French settlers still remained in Canada. If so, they must have been some left there by him on his return to France, after his first voyage in 1542, when he met Cartier.

SECT.

I.

1546.

Proceed-
ings of the
English.

To return to the proceedings of the English nation.—Although Henry VIII, during his long reign, was frequently at open enmity with Spain, and, for a considerable part of it, was under no restriction from a papal bull, yet his interference in the affairs of the continent, and the vexation he experienced about his wives, seem to have so much engrossed his attention, and of consequence that of the nobility and gentry of his kingdom, that his reign appears to have been unfavourable to the progress of discovery.

1546.
Fishery
of New-
found-
land.

In the feeble minority of his son Edward VI, less was to be expected. It seems, from the preamble to a statute made in the second and third year of this king's reign,* that, "within a few years, then past, there had been levied and taken by certain officers of the admiralty, of such merchants and fishermen as had used and practised adventures and voyages to Iceland, Ireland, and other places, commodious for fishing, divers great exactions, as sums of money, doles, and shares of fish, for licenses to pass the realm for such purposes;" severe penalties were therefore enacted against such offenders. This statute appears to have originated from some abuses either connived at or practised by the king's uncle,

This seems, however, to be contradicted by a passage in Charlevoix's *Nouv. France*, 1, 22, "Avec eux tombèrent toutes les esperances, qu'on avoit conçûes de faire un établissement en Amerique." And in Harris's *Voyages*, just cited, it is said that "it was this gentleman (Roberval) who first fixed some French settlements in America, which, however, were afterwards abandoned."

* II and III Edw. 6. c. 6. at a parliament holden November 4th, 1548.

Thomas Seymour, lord high admiral of England, who was attainted by an act of parliament of this same session. As the admiral had undoubtedly formed very unjustifiable schemes of ambition, and probably took this method of obtaining money as the means of success in those schemes, there is every reason to suppose that the accusations against him on this subject, were not without foundation. The act, however, serves to show, that the English fishery on the coast of Newfoundland, was at this period an object of such national importance as to deserve legislative encouragement; and it is said to have been the first act of parliament that ever was made in relation to America.*

SECT.

I.

1548.

The pension which was in this reign also granted to Sebastian Cabot,† seems to imply, that his services in the discovery of North America were not deemed entirely unworthy of remuneration. It must be observed, however, that in the reigns of both Henry and his son Edward, the ruling persons in England appear to have been less desirous of making discoveries of new countries and settlements therein, than in exploring a more expeditious route to the East-Indies. After failing in some of their

1549.

Pension
granted
to Cabot.

• Holmes's Annals, Vol. 1, p. 94.

† See the letters patent for this pension at large, in Hazard's Collections, Vol. 1, p. 23. It bears date, January 6th, 2 *Edw.* 6, (which, according to new style, was January 6th, 1549). It is said, in Harris's Voyages, Vol. 2, p. 193, that Cabot was by this patent created grand pilot of England, but no such grant of an office appears in the instrument published by Hazard. He seems to have been at the head of a company, which existed in England at this time, under the title of "Merchant Adventurers for the discovery of New Lands."

SECT. attempts to find out what was called a north-west
I. passage thereto, the minds of the nation seem to
1549. have been at this time turned towards a discovery
of what was called the north-east passage. This
was, in all probability, a more preponderating cause
which induced them to hold Mr. Cabot's talents in
such high request; and this strange infatuation of
the nation about these passages might probably also
be one cause of preventing their attention at this
time to the more substantial and practicable pur-
suits of Cabot's discoveries in America.

In the reign of Queen Mary, her marriage with
Philip, king of Spain, necessarily put a stop to any
thing whatever, that might possibly interfere with
the affairs of that nation in America. Thus, from
1553. a singular series of causes, did sixty years elapse
from the time when the English first discovered
North America, before they had made any effectual
efforts to avail themselves of the advantages result-
ing from that discovery.

SECTION II.*

The reign of Elizabeth favourable to maritime adventures—Sir Humphrey Gilbert, the first conductor of an English colony to America—Letters Patent to him for that purpose—Characteristic incidents relative to Sir Humphrey Gilbert—his first voyage unsuccessful—sails a second time for America—takes possession of Newfoundland—is lost on his return to England.

A VARIETY of concurrent circumstances, contributed to render the reign of Elizabeth favourable to the growth of the maritime power of England. The intercourse which had subsisted for some time between the English and Spanish nations, through the alliance of their monarchs, especially in the reign of Mary, immediately preceding, had diffused among the English a considerable knowledge, not only of the general naval affairs of Spain, but more particularly of their American dis-

SECT.
II.

1558.

The reign of Elizabeth favourable to maritime adventures.

* The author had prepared a distinct section, to be inserted here, containing a sketch of the attempts of the French protestants, under the direction and patronage of admiral Coligny, to plant colonies, about this time, in that part of the continent of America, now called South Carolina, in consequence of the oppressions which these protestants experienced from the civil war then raging in France. The emigration of the French Hugonots, under Ribaut and Laudonniere—the cruel massacre of them by the Spanish catholics, under Menendez, and the just retaliation inflicted upon the Spaniards by the Chevalier de Gorgues, form a very interesting part of American history. But as the reader would probably consider these events, as bearing but a slight relation to the history to which this volume is intended as an introduction, it has been thought most proper to suppress that section.

SECT. coveries and settlements. The wealth, which was

II.

1558.

supposed to flow in upon the Spanish nation, from that source, would naturally allure the English to some endeavours to participate in these advantages. The accession of Elizabeth to the throne of England, together with the restoration of the reformed religion, in the course of a few years placed the two nations in a state of hostility towards each other. Queen Elizabeth early foresaw this, and neglected nothing that might keep up and promote a maritime spirit among her people. She therefore, in a particular manner, manifested her approbation of the naval exploits of captain Hawkins, Sir Francis Drake, and other great mariners. It must be observed here, that soon after the discovery of the northern part of America by Cabot, and especially that part of it, denominated by him Newfoundland, divers other European nations resorted to that coast, for the great emoluments to be derived from the fishery on its banks. Insomuch, indeed, that some of them affected to claim the right of the first discovery of that country. But, as that claim appeared to be without foundation, and as the advantages of the fishery, would be much enhanced to any nation that might have possession of that island, the able ministry of that politic princess, could not be insensible to the advantages of making a settlement thereon. Added to this, the extensive progress, which the Spanish nation had now made in the colonisation of South America, could not fail to excite the ardent emulation of the English, in following their example by a like colonisation of the north. Indeed, the danger of anticipation must have been

now urgent ; for, it appears by an account published in the year 1578,* that there were fifty sail of English ships, one hundred sail of Spaniards, fifty of Portuguese, and one hundred and fifty French, employed in that year, in the fishery on that coast. It was evident, therefore, that so extensive and inviting a continent as North America, could not now remain much longer without some attempts by some nation, to fix settlements thereon.

SECT.
II.

1558.

At this period then, Sir Humphrey Gilbert is mentioned by historians, with the distinction due to the conductor of the first English colony to America. He was a native of Devonshire ; inherited a good estate, and had early rendered himself conspicuous by his military services in France, Ireland, and Holland. Having afterwards turned his attention to naval affairs, he published a discourse concerning the probability of a north-west passage to the Indies ; which discovered no inconsiderable portion, both of learning and ingenuity, mingled with the enthusiasm, the credulity, and sanguine expectations which incite men to new and hazardous undertakings.† With the honourable desire of in-

1578.
Sir Humphrey Gilbert the conductor of the first English colony to America.

* By a Mr. Barkhurst. See Harris's Voyages, Vol. 2, p. 198.

† Robertson's Hist. of America, Vol. 4, p. 159. Tindal's edit. of Rapin's Hist. of England, Vol. 7, p. 387. Leland's Hist. of Ireland, Vol. 2, p. 252. In confirmation of the above character of Sir Humphrey, from Robertson, it may be mentioned, that Sir Humphrey was, a few years before this, (between the years 1571 and 1574,) engaged with the learned Sir Thomas Smith, in some visionary schemes of alchemy, through which means they expected to accumulate sudden wealth, by the transmutation of iron into copper. They were

SECT. II. creasing his private fortune, by the pursuit of the public service, he applied to Elizabeth for permis-

1578. sion to carry his schemes into effect. He represented to her the expediency of settling all those countries upon the continent of America, which had been formerly discovered by Cabot, because otherwise it was not at all unlikely, that the French, who had often reviewed those places, would be desirous of supplanting the English, and because it was very far from being improbable, that those countries abounded with very rich minerals.* Upon these suggestions, he easily obtained from the queen, letters patent, vesting in him sufficient powers for this purpose.

It has been observed, that this being the first charter to a colony granted by the crown of England, the articles of it merit particular attention, as they unfold the ideas of that age with respect to the nature of such settlements.† “ She thereby

men of such reputation for talents and genius, that they drew in secretary Cecil and the earl of Leicester, to join them in the scheme. The project eventuated, as other delusive dreams of alchymy have generally done—in the ruin of the projectors. Sir Thomas smarted very severely in his purse, and Sir Humphrey was impoverished by it. The former sought to recruit his finances by planting colonies in Ireland, and the latter by the like proceedings in America. It is, however, one among many instances, wherein the very errors of philosophers have been consequentially productive of great good to mankind. See a biographical account of the life of Sir Thomas Smith, published in the Pennsylvania Magazine for January, 1776.

* Harris's Voyages, Vol. 2, p. 199.

† Although this observation is made by Robertson, (*Ibid.*

grants to him, and to his heirs and assigns, for ever, license to discover and view such remote heathen and barbarous lands, countries, and territories, as were not actually possessed by any Christian prince or people, and the same to hold, occupy, and enjoy to him, his heirs, and assigns for ever, with all commodities, jurisdiction, and royalties, both by sea and land ; and the said Sir Humphrey, and all such, as from time to time, by royal license, should go and travel thither, to inhabit or remain there, the statutes or acts of parliament made against fugitives, or any other act, statute, or law whatever, to the contrary in any wise notwithstanding.* And that he might take and lead in the same voyages, to travel thitherward, or to inhabit there with him, such, and so many of her subjects as should willingly accompany him, so that none of them be such as thereafter should be specially restrained by her. And further, that he, his heirs, and assigns, should have, hold, occupy, and enjoy forever, all the soil of all such lands, &c. with the rights, royalties, and jurisdictions, as well marine as other, within the said lands, with full power to dispose thereof, or part thereof, in fee sim-

SECT.
II.

1578.

June 11.

Letters

patent for

that pur-

pose.

last cited,) yet there seems to be no sound reason, why the letters patent granted by Henry VII, in the year 1502, to Hugh Elliott and others, merchants of Bristol, as before mentioned, should not be called a charter to a colony, as well as this to Sir Humphrey Gilbert. The former, after granting license to the patentees to *discover* new countries, grants them license also, to take out with them, any English subjects to *inhabit and settle* in those countries so discovered—" *et in eodem habitare.*" No permanent settlement in America was ever formed under either of the charters.

* See note (D) at the end of this volume.

SECT.

II.

1578.

ple, or otherwise, according to the laws of England, at his and their will and pleasure, to any person within her allegiance, paying unto her the fifth part of all the gold and silver, that should be there gotten: the said lands, &c. to be holden by the said Sir Humphrey, his heirs and assigns, of her majesty, her heirs and successors, by homage, and by payment of the fifth part before reserved. She grants him license to expel all persons, who without his special permission, should attempt to inhabit the said countries, or within two hundred leagues of the place, where he, his heirs, or assigns, should, within six years next ensuing, make their settlement: and she authorises him to capture all persons, with their vessels and goods, who should be found trading within the limits aforesaid, without his license. And for uniting in perfect league and amity, such countries, lands, and territories, so to be possessed and inhabited, as aforesaid, she declares, that all such countries, so to be possessed and inhabited as aforesaid, from thenceforth should be of the allegiance of her, her heirs and successors, and the persons to inhabit them should enjoy all the privileges of free denizens or natives of England. She grants to Sir Humphrey, and his heirs and assigns, for ever, that he and they might, from time to time, for ever thereafter, within the said mentioned remote lands and countries, and in the way by the seas thither, and from thence, have full power and authority to correct, punish, pardon, govern and rule, by their good discretions and policies, as well in causes capital or criminal, as civil, both in marine and other, all such her subjects, and

others, as should inhabit the said countries, according to such statutes, laws and ordinances, as should be by him, the said Sir Humphrey, his heirs, and assigns, devised or established, for the better government of the said people as aforesaid; so always, that the said statutes, laws and ordinances, may be, as near as conveniently may, agreeably to the form of the laws and policy of England: and also, so as they be not against the true Christian faith or religion now professed in the church of England, nor in any wise to withdraw any of the subjects or people of the lands or places, from the allegiance of her, her heirs or successors.”*

SECT.

II.

1578.

After obtaining this favour from the queen, Sir Humphrey applied himself to his relations and friends, in order to frame a society capable of carrying this design into execution; for, it seems that the English monarchs of those times, were either unable or indisposed, to defray the expenses of these great naval expeditions, although the public were to be principally benefited by them. Hence, as was observed before, the Cabots were obliged to bear the expenses of their voyages themselves, except with what aid they might procure from the merchants of Bristol; and it has been attributed to the parsimony of Elizabeth, though it might probably have been owing to her inability, that she contributed but little, besides her royal license, to aid the many important naval expeditions undertaken in her reign. With her letters patent, indeed, for the erection of exclusive companies for trade, she was very liberal.

Characteristic incidents relative to Sir Humphrey Gilbert.

* See this charter at large, in Hazard's Collections, Vol. I, p. 24.

SECT. Hence *monopolies* were among the most grievous
II. burthens of her high-toned exertion of prerogative.

1578. We are sorry to find, that our worthy knight was among the most zealous advocates for these exertions of royal authority ; perhaps, indeed, self-interest might have an undue operation in his mind. He was a member for Devonshire, in the house of commons, at the parliament holden in the 13th of Eliz. a few years prior to the date of his patent. One Robert Bell, a Puritan, (to which sect, as observed by Hume, although their principles appear so frivolous, and their habits so ridiculous, yet the English owe the whole freedom of their constitution,) had, in that session, made a motion against an exclusive patent, granted to a company of merchants in Bristol. Sir Humphrey spoke against the motion : “ He endeavoured to prove the motion made by Bell, to be a vain device, and perilous to be treated of ; since it tended to the derogation of the prerogative imperial, which, whoever should attempt, so much as in fancy, could not, he said, be otherwise accounted than an open enemy. For, what difference is there between saying, that the queen is not to use the privilege of the crown, and saying that she is not queen ? And though experience has shown so much clemency in her majesty, as might, perhaps, make subjects forget their duty, it is not good to sport or venture too much with princes. He reminded them of the fable of the hare, who, upon the proclamation, that all horned beasts should depart the court, immediately fled, lest his ears should be construed to be horns ; and by this apologue, he seems to insinuate, that even

those who heard, or permitted such dangerous speeches, would not themselves be entirely free from danger. He desired them to beware, lest, if they meddled farther with those matters, the queen might look to her own power; and finding herself able to suppress their challenged liberty, and to exert an arbitrary authority, might imitate the example of Louis XI, of France, who, as he termed it, delivered the crown from wardship." Upon this speech, the historian proceeds to observe: "Though it gave some disgust, nobody at the time replied any thing, but that Sir Humphrey mistook the meaning of the house, and of the member who made the motion: they never had any other purpose, than to represent their grievances, in due and seemly form, unto her majesty. But in a subsequent debate, Peter Wentworth, a man of superior free spirit, called that speech an insult on the house; noted Sir Humphrey's disposition to flatter and fawn on the prince; compared him to theameleon, which can change itself into all colours, except white; and recommended to the house a due care of liberty of speech, and of the privileges of parliament. It appears, on the whole, that the motion against the exclusive patent had no effect. Bell, the member who first introduced it, was sent for by the council, and was severely reprimanded for his temerity. He returned to the house with such an amazed countenance, that all the members, well informed of the reason, were struck with terror; and during some time, no one durst rise to speak of any matters of importance, for fear of giving offence to the queen and the council. It is remarkable, that the patent,

SECT.

II.

1578.

SECT.
II.

1578.

which the queen defended with such imperious violence, was contrived for the profit of four courtiers, and was attended with the utter ruin of seven or eight thousand of her industrious subjects.”*

1579.

His first
voyage
unsuc-
cessful.

We are to return, however, to the progress which Sir Humphrey made, in carrying into effect his charter of colonisation. With the influence of his own character, and the zealous efforts of his half-brother, Walter Raleigh, who, even in his early youth, displayed those splendid talents and that undaunted spirit, which create admiration and confidence. Sir Humphrey at first met with considerable encouragement. But as the time of embarkation approached, some of his associates beginning to form particular projects of their own, inconsistent with his general scheme, and others totally failing in the performance of their engagements, his preparations were much thwarted and delayed. He, however, put to sea with such of his friends as had adhered to their promises, among whom it is said, was his brother Walter Raleigh. The voyage proved unfortunate, and was attended with the loss of one of his best ships, and several of his most esteemed friends. Nor is it quite certain that he arrived, in the course of this voyage, at any part of America; but it is supposed, that he met with a severe encounter with the Spaniards, and was on that account obliged to return.†

1583.

His second
voyage.

As Sir Humphrey's patent was to expire at the end of six years from the date thereof, unless he made some settlements under it, it soon became

* Hume's Hist. of England, ch. 40.

† Harris's Voyages, Vol. 2. p. 201. Holmes's Annals, Vol. 1. p. 113.

necessary for him to resume his schemes, or relinquish them altogether. In the spring of the year 1583, he had again brought his design into some order; but to furnish the necessary expenses thereof, he was obliged to sell what estate he had, though he had great assistance from his friends, and several gentlemen of rank and fortune agreed to go with him in person. With this view a small squadron was fitted out, consisting of five ships and vessels of different burthens, among which was one called the Raleigh, of 200 tons, fitted out by his brother Walter Raleigh, though, it seems; he did not attend him in this second expedition. In all these vessels were shipped about two hundred and sixty men, among whom were shipwrights, masons, carpenters, smiths, miners, and refiners. To complete the equipment of this colony, some singular circumstances were thought necessary, and may be here mentioned in the words of the original account of the voyage, as it is in Hackluyt; "Besides, for solace of our people, and allurement of the savages, we were provided of musike in good varietie; not omitting the least toyes, as morris dancers, hobby-horse, and May-like conceits, to delight the savage people, whom we intended to winne by all faire means possible. And to that end we were indifferently furnished of all pettie haberdasherie wares to barter with those simple people."* The resolution of the proprietors was, that the fleet should begin its course northerly, and follow as directly as they could the trade-way to Newfoundland, from whence, after having refreshed and supplied themselves with all ne-

SECT.

II.

1583.

* Holmes's Annals, Vol. 1. p. 113, quotes Hackluyt, iii, 149.

SECT. cessaries, their intent was to proceed into the south,

II.

1583.

and not to pass by any river or bay, which in all that large tract of land should appear worth their looking into. They likewise prescribed the orders to be observed in the voyage, and the course to be steered, which were delivered to the captains and masters of every ship in writing. On the 11th of June, 1583, the fleet sailed from Plymouth; but, on the thirteenth, their large ship, the Raleigh, under pretence that her captain and a great number of her men were suddenly taken ill of a contagious disease, left the fleet and returned to Plymouth; some say, in great distress, but others that it was done with a design to ruin the expedition. Of this circumstance, Sir Humphrey, when he arrived in Newfoundland, wrote to one of his friends in England, with great resentment and asperity.* On the 30th of July they had sight of land in about 51° of north latitude. From thence they followed the coast to the south, till they came to the island Bacalaos. Continuing the same course southward, they came the same day, being the 3d of August, to the harbour of St. John. He found there several vessels, of different nations, to the amount of thirty-six sail, lying in the harbour and fishing therein. They seemed at first disposed to refuse him an entrance into the harbour. But Sir Humphrey, after preparing to make good his passage by force of arms, first sent in his boat to inform the masters of those vessels, that he had a commission from the queen to take possession of these lands for the crown of England. They were satisfied, and submitted to the levying a tax of provi-

* See note (E) at the end of this volume.

sions from each ship, for supplying the wants of Sir Humphrey's small squadron.

SECT.
II.

On the fourth of August, Sir Humphrey, whom they called the general, and his company, was conducted on shore by the masters of the English fishing vessels, and their owners or merchants, who were with them. On the fifth, the general having caused a tent to be set up in view of all the ships in the harbour, to the number of between 30 and 40 sail, and being accompanied by all his captains, masters, gentlemen, and soldiers, summoned all the merchants and masters, both English and foreigners, to be present at his taking a formal and solemn possession of those territories. Being assembled, he caused his commission, under the great seal of England, to be openly read before them, and to be interpreted to those who were strangers to the English tongue. By virtue of this commission, he declared that he took possession of the harbour of St. John, and two hundred leagues every way; invested her majesty with the title and dignity thereof, and having had (according to custom) a rod and turf of soil delivered to him, entered and took possession also for himself, his heirs, and assigns forever. He signified to those who were present, and through them to all men, that from thenceforward they should look upon those territories as appertaining to the queen of England, and himself, authorized, under her majesty, to possess and enjoy them, with power to ordain laws for the government thereof, agreeable (as near as conveniently could be) to the laws of England, under which all people coming thither for the future, either to inhabit or by way of traffic, should

1583.

Takes
possession of
New-
foundland.

SECT. submit and be governed. He then published three

II.

1524.

laws for the government of the territory. By the first, public worship was established according to the church of England; by the second, the attempting of anything prejudicial to her majesty's title, was declared treason, according to the laws of England; by the third, the uttering of words to the dishonour of her majesty, was to be punished with the loss of ears and the confiscation of property. To all this, the multitude then present, as well strangers as Englishmen, assented, it is said, by a general voice. The assembly was then dismissed, and not far from the same place a pillar of wood was erected, to which was infixed a plate of lead, with the arms of England engraven thereon. For the further establishment of this possession so taken, the general granted "in fee farme" several parcels of land lying by the water side, both in the harbour of St. John, and elsewhere, with a reservation of a certain rent and service unto Sir Humphrey Gilbert, his heirs, or assigns for ever.

Some writers have attributed all this solemnity to a high degree of vanity in the west country knight; and have ridiculed his pretences to improve the trade of the kingdom, and enlarge the queen's dominions by cutting a turf; in which, however, they injure this gentleman's memory extremely; for, the plain reason of Sir Humphrey's conduct throughout this affair, was his anxiety to give some effect to his grant, which was perpetual to him, and his heirs, in case he took possession of any countries within six years, as before mentioned, and otherwise it was void. There were now but a few months of this period to come. He had sold his estate in England, and it

concerned him very nearly to secure an estate somewhere else; and therefore this parade was not from any principle of vanity, but from justifiable prudence and good economy, especially under the full expectation, as we may suppose him to have then been, of settling a colony in that part of the country. The important public consequences, also, which are said by later writers to have flowed from his conduct herein, will effectually do away all ridicule attending it. This formal possession now taken, in consequence of the prior discovery by Cabot, has been considered by the English as the foundation of the right and title of the crown of England to the territory of Newfoundland, and *to the fishery on its banks*. It is perhaps unnecessary to add, that their powerful navy has enabled them to support this right, however flimsy and exceptionable it may appear.

SECT.
II.

1583.

Sir Humphrey remained at St. John's some time, to collect a tax of provisions, granted to him by every ship which fished upon the coast adjoining, to repair his ships, and in the mean time to explore the island. They found no inhabitants in the southern part of the island, the natives having probably abandoned it on its being so much frequented by Europeans; but in the northern there were some savages who appeared to be harmless and inoffensive in their tempers and dispositions. He now resolved to proceed in his discoveries southward; and accordingly sailed, on the 20th of August, from the harbour of St. John's. Pursuing this route for some days, they found themselves on the 29th of the month in the midst of dangerous shoals, in latitude 44°, somewhere about Nova Scotia or Cape Breton. Here they lost one of their best ships, in which pe-

Is lost on
his return
to Eng-
land.

SECT.

I.

1536.

rished near a hundred persons. Of this number was Stephen Parmenius Budeius, a learned Hungarian, who had accompanied the adventurers to record their discoveries and exploits. After this loss, the men being generally discouraged and in want of necessaries, Sir Humphrey proposed returning to England, having, in his judgment, made discoveries sufficient to procure assistance enough for a new voyage, in the succeeding spring. His people, when he made this proposal, were at first reluctant in their assent to it; but upon hearing his reasons, they submitted; and, according to his advice, on the last of August, they altered their course and steered for England. When they left St. John's, Sir Humphrey had embarked himself on board of the smallest vessel he had with him, which was only of ten tons burthen, thinking her the fittest for observing and discovering the coast. In a few days after they had taken their departure from Cape Race, the most eastern promontory of Newfoundland, they met with violent storms, attended with heavy seas, which so small a vessel was unable to sustain. About midnight, on the 9th of September, the men in the larger ship, having watched the lights in the small vessel in which Sir Humphrey was, observed them to be suddenly extinguished. It was supposed, that she sunk that instant, for she was never afterwards heard of. Thus perished a man, whose spirit of adventure certainly contributed much, at least by example, to the early population of British America, and whose genius and talents entitled him to better fortune.*

* Harris's Voyages, Vol. 2, p. 199, 200, Holmes's Annals, Vol. 1, p. 113.

SECTION III.

Sir Walter Raleigh—his rise and character—obtains a renewal of Sir Humphrey's letters patent to himself—Voyage of capts. Amidas and Barlow.—The effects of their voyage in England—Sir Richard Grenville's attempt to settle a colony in North Carolina.

THE laudable schemes of Sir Humphrey Gilbert, happily for mankind, did not expire with him. His half and younger brother, Sir Walter Raleigh, as he appeared to inherit his useful qualities, seemed also to become heir to his pursuits. He was at this period of time in high favour with the queen. Some writers seem to insinuate, that most of Queen Elizabeth's favourites were remarkable for their personal attractions. All historians who speak of Sir Walter appear to agree that he was conspicuous in his time, not only for the symmetry of his form and the manliness of his deportment, but for his insinuating address with the ladies. Although most authors place the era of his rise at court about this time, yet they do not agree so exactly in assigning the cause of it. The military eclat which he had, a year or two before, acquired in Ireland, where he commanded a company under Lord Grey, against the Spaniards and Irish rebels, was, according to some, the cause of his being known at court. Others would have the earl of Leicester to have been the chief agent in his rise, who, being in the decline of life himself, thought that he might still continue to govern the queen through the interme-

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Sir Walter Raleigh, his rise and character.

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diate agency of Sir Walter's youthful form and pleasing manners. Others again, attribute his introduction at court to the influence of Ratcliffe, earl of Sussex, in order to supersede his great enemy, the earl of Leicester, himself. But his biographer, in a small tract of his life, prefixed to his History of the World,* thinks it proper to lay some stress on a ridiculous incident, which as he supposes, might have been one cause of his aggrandizement. For the mention of this he apologizes, by remarking, that "little transactions are often the best inlets to truth and the mysteries of state;" and thus relates it: "Our captain (Raleigh) coming over out of Ireland upon the aforementioned cause to court, in very good habit, (which it seems was the greatest part of his estate,) which is often found to be no mean introducer where deserts are not known, found the queen walking, till she was stopt by a plashy place, which she scrupled treading on; presently he spread his new plush coat on the ground, on which the queen gently trod, being not a little pleased, as well as surprised, with so unexpected a compliment. Thus, as one remarks upon this story, *an advantageous admission into the first notices of a prince, is more than half a degree to preferment.*† For he presently after found some gracious beams of favour reflecting on him, which he was resolved, and well knew how, to cherish and contract. To

* This tract here cited, does not appear to be the one written by *Oldys*, but one prior to it, printed in 1687.

† Fuller's Worthies.

put the queen in remembrance; he wrote in a window obvious to her eye,

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"Fain would I climb, yet fear I to fall;" 1584.

which her majesty either espying or being shown, under-wrote this answer,

"If thy heart fail thee, climb not at all."

Whichever of the foregoing causes be adopted, and it is probable that they all might have combined in his promotion, it is very certain, that he stood HIGH AT THIS TIME IN THE FAVOUR OF THE QUEEN.*

Sir Walter, thus placed in a familiar intercourse with royal authority, would naturally be led to avail himself of his situation, in carrying into effect the honourable schemes of his brother Sir Humphrey Gilbert; especially when those schemes were not only congenial to a young and ambitious mind, but were also the means of recommendation to the patroness of his fortunes.† Having maturely digested

He obtains a renewal of Sir Humphrey's letters patent to himself.

* See note (F) at the end of the volume.

† It would seem, that at this time, considerable foreign trade was carried on in the west of England, particularly in Devonshire, by some merchants and others, resident in that part of the country. Indeed, as will be seen hereafter, in the course of this work, the settlements of Virginia and New England, were principally owing to them. Among these public-spirited persons, the Gilbert and Raleigh family of that county seems conspicuous. It was in the year 1584, (new style), February 6th, a little more than a month prior to the grant to Sir Walter, that letters patent were granted to Mr. Adrian Gilbert, "of Sandridge, in the county of Devon, gentleman;" (whom we may suppose to have been a full brother to Sir Humphrey, and half brother to Sir Walter Raleigh,) and others, for the search and discovery of a passage

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a plan for the discovery and settlement of those parts of North America, lying north of the Gulf of Mexico, and which were as yet unknown and unsettled by the Spaniards, he laid it before the queen and council; to whom it appeared a rational and practicable undertaking. He, therefore, easily obtained a renewal of letters patent to himself, in as ample form, and containing nearly the same clauses and provisions as in that to his brother Sir Humphrey Gilbert.* As the monarchs of England, not

to China and the Molucca Isles, "by the northwarde, north-eastwarde, or northwarde," creating them a corporation by the name of "The colleagues of the fellowship, for the discoverie of the north-west passage." (See the letters patent at large in Hazard's Collections, Vol. 1, p. 28.) But this grant was in some measure superseded by a like project set on foot about the same time in London, under the patronage of Mr. William Sanderson, an eminent merchant of that city. The two associations uniting, captain John Davis was sent out for that purpose, in the year 1585, to the northern coasts of America; who made considerable discoveries in that part of the American continent since called Davis's Straits. (See Harris's Voyages, Vol. 2, p. 203.) The reader's attention may be interrupted for a moiment, in noticing a remarkable clause in these letters patent, to Adrian Gilbert: mutiny on board the ships, while on their voyage, was to be punished, "as the cause shall be found, in justice to require, by the verdict of twelve of the companie, sworne thereunto;" that is, by a jury selected from the ships company.

* They bear date the 25th of March, 26th of Eliz. (1584, new style.) and are nearly *verbatim* the same as the before-mentioned patent to Sir Humphrey Gilbert. One small variance between them may be noted: in the clause granting power to Sir Walter, to capture all such vessels as shall be found trafficking within the limits of his grant, without his license, exception is made of "the subjects of our realms and

only of the Tudor line, but afterwards of the Stuarts, were unwilling to be dependant on their parliaments for their revenues; they were, therefore, generally too poor and needy, to assist with money in the promotion of such laudable enterprises, as the one now contemplated by Raleigh. With their *patents for exclusive trade*, especially with those which promised any emolument to the crown, they were extremely liberal. Hence, *monopolies* were among the most grievous burthens, and the most frequent subject of complaint, even during the popular reign of Elizabeth. Sir Walter was, therefore, obliged to have recourse to the assistance of private individuals, to enable him to pursue his schemes. Before he had obtained his patent, he had formed an association of his friends*, and had prevailed on several merchants and gentlemen, to advance large sums of money towards carrying on his designs.† Accordingly, within a month after the date of his patent, he was enabled to fit out two ships, under the command of captains Philip Amidas and Arthur

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dominions, and all other persons in amitie with us, trading to the *Newfoundlands* for fishing, as heretofore they have commonly used." This exception is not in the patent to Sir Humphrey Gilbert. See them at large in Hazard's Collections, Vol. 1, p. 33.

* Among these were Sir Richard Grenville, his kinsman, and Sir W. Sanderson, who had married his niece. Burk's Hist. of Virginia, Vol. 1, p. 45. The latter gentleman was, probably, the same as the one before mentioned, who was concerned with Adrian Gilbert, in the discovery of a north-west passage.

† Oldmixon's British Empire in America, Vol. 1, p. 210. Mod. Univ. Hist. Vol. 39, p. 235.

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Voyage of
captains
Amidas
and Bar-
low.

Barlow, to visit the countries which he intended to settle, and to acquire some previous knowledge of their coasts, their soil, and productions.

They sailed for the west of England on the 27th of April following; and to avoid the error of Sir Humphrey Gilbert, in holding too far north, they shaped their course for the Canaries, which they passed on the tenth of June,* and proceeding from thence to the West Indies, they crossed the Gulf of Mexico, and on the second of July, fell in with the coast of Florida. They sailed along this coast, till they came, on the 13th of the month, to a river, where they anchored; and going on shore, took possession in right of the queen, and for the use of the proprietors. They went to the tops of the hills which were nearest to the shore, from whence, though they were not high, they discovered the sea on all sides, and found the place where they landed, to be an island of about fifteen miles in length and six in breadth; then called by the natives, Wokoken.†

• Another reason for this course is said to be thus expressed in the account of this voyage, written by Barlow: "Because we doubted that the current of the Bay of Mexico, between the Capes of Florida and Havannah, was much stronger than we afterwards found it to be." Burk's Hist. of Virginia, Vol. I, p. 46. Mod. Univ. Hist. Vol. 39, p. 236.

† The disagreement and confusion among all the writers on this voyage, as to the topography of the places referred to, render it almost impossible to ascertain with precision where this island was situated, or what river it was which they first entered. A passage cited (by Burk in his history of Virginia, Vol. I, p. 46,) from Barlow's letter to Sir Walter Raleigh, preserved by Hackluyt, is supposed to throw some light

On the third day after their arrival and landing, they saw three of the natives in a canoe, one of whom went on shore and waited, without any signs of apprehension, the approach of a boat from the ships, which was sent to him. He spoke long and earnestly to them, in his own language, and then went with them on board, without any apparent fear. They gave him a shirt and hat, and some wine and meat, with all which he seemed pleased. After he had, with a seeming satisfaction, narrowly viewed the ships, and examined every part with his eyes and touch, he went in his canoe, to about a quarter of a mile's distance, where he fished, and returned in a short time, with his canoe loaded with fish; which he divided equally in two heaps, and making signs that each vessel should take one, he departed.

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The next day several canoes appeared in view; in one of which came the king's brother, whose name was Granganimeo, attended with about forty men. The king himself, whose name was Win-

upon the subject; wherein he says, that he, (Barlow) "with seven others, went in a boat, twenty miles into the river Occam, and the evening following, came to an island called Roanoke, distant from the harbour by which we entered, *seven leagues*." Stith (in his Hist. of Virginia,) seems to think that this island called Wokoken, must have been that now called Ocracoke. Beverly, (in his Hist. of Virginia,) says, "they anchored at an inlet by Roanoke." What is said also in the accounts of the subsequent voyages of Sir Richard Grenville to Roanoke, and the relief of the colony by Sir Francis Drake, seems to confirm the opinion, that Wokoken and Ocracoke were one and the same island; and the river where they anchored, Roanoke inlet.

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gina,* lay ill of the wounds he had received in battle, with a neighbouring nation. The behaviour of Granganimeo, when he approached the ships, is best described in the very words of the original account of the voyage, as preserved in Hackluyt. "The maner of his comming was in this sort; hee left his boates altogether as the first man did (the day before) a little from the shippes by the shore, and came along to the place over against the shippes, followed with fortie men. When he came to the place, his servants spread a long matte upon the ground, on which he satte downe; and at the other end of the matte, foure others of his companie did the like, the rest of his men stood round about him, somewhat a farre off: when we came to the shore to him, with our weapons, hee never moved from his place, nor any of the other foure, nor never mistrusted any harme to be offered from us; but sitting still, he beckoned us to come and sit by him, which we performed: and being set, hee made all signs of joy and welcome."† Our navigators made to him and his four chiefs, presents of several toys, which he kindly accepted; but he took all himself, and gave them to understand, that none there had a right to any thing but himself. Two days afterwards they let him see their merchandise; of which nothing seemed to please him more than a pewter dish, for which he gave twenty deer-skins; and making a hole in the rim of it, hung it over his neck for a

* The country was called by the natives, Wingadocia, in respect possibly to the reigning chief, Wingina.

† See Holmes's Annals, Vol. 1, p. 117.

breast-plate, making signs that it would defend him against the enemy's arrows. The next thing he bought was a copper kettle, for which he gave fifty skins. As long as he thought fit to traffic with them, none but such as like him, wore plates of gold or copper on their heads, were allowed either to buy or sell; but as soon as they had done, every man had his liberty. They offered very good exchange for hatchets, axes, and knives; and would have given any thing in truck for swords, but the English would not part with any. Granganemeo came afterwards frequently on board, and would eat, drink, and be merry with them; and once he brought his wife and children with him, who afterwards came frequently with her followers only. The English often trusted him with goods upon his word, to bring the value at a certain time, which he never failed in doing. He had a strong inclination to have a suit of armour and a sword, which he saw in one of the ships; and would have left a large box of pearls in pawn for them; but they refused it, that he might not know they set a value upon them, till they could discover whence he got them. He supplied them every day with venison, fish, and fruits; and invited them to his habitation on Roanoke island. After this friendly intercourse, captain Barlow, with seven of his men, went in a boat twenty miles into the river Occam, (supposed to be the same as Pampticoe sound,) and the evening following came to the isle of Roanoke, at the mouth of Albemarle sound, where they found a village, the residence of Granganemeo, situated in the northern extremity of the island, and consisting of nine

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houses, built of cedar, and fortified with sharp palisades. When the English arrived there in their boat, Granganemeo was absent ; but his wife received them with generous hospitality. Their boat she ordered to be drawn on shore, that she might not be injured by the surge ; the oars, for better security, were taken to her house ; while the English, by her orders, were conveyed from their boat on the backs of the natives. She took off their stockings, and washed their feet in warm water. When dinner was ready, she led them into an inner room, where they were feasted with venison, fish, fruit, and homini.* Whilst they were eating, some of her people came in with their bows and arrows. The English, suspecting treachery, flew to their arms ; but the wife of Granganemeo, perceiving their suspicions, ordered the bows to be taken from her people, their arrows to be broken, and themselves

* I find this dish, so well known both in Maryland and Virginia as a great delicacy, though borrowed from the aborigines of the country, spelt as above by the latest historian of Virginia, Burk, (Vol. 1, p. 47,) who cites Stith on this occasion. I have never understood, that the *word* was of Indian origin. It is, more probably, a corruption of the French word *omelet*, and now spelt "homini," according to the sound as pronounced by us. An *omelet* with the French, a nation celebrated for their knowledge in the science of cookery, means a kind of pancake or fricassee of eggs, with other ingredients. It is derived, according to the learned Mr. de la Mothe le Vayer, from the two words *auf*, egg, and *mêler*, mingled. But the forms of *omelets* among them are various. There are omelets of green pease. So with us, a dish of *fried homini*, may be called an omelet of maize.

to be beaten out of the house. In the evening,* the English thought it prudent to return to their boat, and having put off at a small distance from the shore, lay at anchor. This generous woman seemed hurt by this precaution; but had a supper dressed for them and delivered at the boat's side, with the pots in which it was cooked. Perceiving their continued distrust, she ordered several men and thirty women to sit on the bank, as a guard to them through the night, and sent several mats to screen them from the weather.

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This island is said to have been the limit of their discovery during this voyage, nor were they fortunate enough to procure any information, except a confused account from the Indians of the wreck of some ship on the coast, between twenty and thirty years before.†

Having loaded their ships with furs, sassafras, and cedar, and procured a small quantity of pearl, which was supposed to be an evident sign of the great riches of the country,‡ they returned to Eng-

* There seems to be some difficulty in reconciling the time of Barlow's arrival at Roanoke island, *in the evening*, according to his own account, as before cited, and the time here above mentioned, of their retiring to their boat. If they arrived in the *evening* at the island, there certainly was not time sufficient for all the circumstances above mentioned to have been acted before they retired to their boat. I have, however, related it as I find it in several respectable historians. See Burk's Hist. of Virginia, Vol. 1. p. 50. Holmes's Annals, Vol. 1, p. 118.

† Burk's Hist of Virginia, *ibid*.

‡ It is said, they also brought home with them some tobacco, the first that was seen in England. *Oldmixon's British Em-*

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The effects of
their voyage in En-
gland.

land about the middle of September, carrying with them two of the natives, whose names were Manteo and Wanchese, who voluntarily accompanied them.*

The adventurers in this voyage, on their return, spread abroad marvellous accounts of their discoveries. To those who are now well acquainted with that part of the continent which Amidas and Barlow visited, the description which they gave of it on their return can be considered only as a scarcely plausible fiction, principally intended to induce future adventurers. Their accounts, however, of the beauty of the country, the fertility of the soil, the mildness of the climate, and the innocence of the natives, were pictured and represented to the queen so much in the style of the scenery of a romance, that her majesty was graciously pleased, it is said, to promise what assistance it should be necessary for the crown to give towards promoting a settlement there. Sir Walter Raleigh, with the gallantry of a courtier, in compliment to his mistress—a virgin queen, thought it proper to bestow on this new discovered paradise the name of *Virginia*. Others, though with less probability, attribute that denomination to the queen herself, because she fancied, that it exhibited man-

pire in America, Vol. 1, p. 211. Although the introduction of tobacco into England is generally referred to the time of governour Lane and his colonists, as hereafter mentioned, yet it is not probable that capts. Amidas and Barlow would have omitted, not only to notice a custom then in common use with the Indians, but also to bring with them a sample of such a remarkable vegetable. It would seem, however, that tobacco was first brought into England by Sir John Hawkins in 1565. See Holmes's Annals, Vol. 1, p. 124.

* Harris's Voyages, Vol. 2, p. 201.

kind in their primitive innocence, and the creation in its first *virgin* purity and plenty.*

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Encouraged by the reports of his navigators, Sir Walter hastened his preparations for taking possession of this inviting property. It was his first intention to have commanded in this expedition himself, and to have carried with him a sufficient number of forces to have completed his design of making a settlement there; but being at that time jealous, that his absence might be prejudicial to his interest at court, he committed the care of this second enterprise to Sir Richard Grenville, his relation,† who was interested with him in his patent, before mentioned, obtained from Elizabeth.‡ Sir Richard, with seven small ships, laden with provision, arms, ammunition, and spare men, to settle a colony, with the

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Sir Richard Grenville's attempt to settle a colony in N. Carolina.

* Oldmixon's British Empire in America, Vol. 1, p. 211. Harris's Voyages, Vol. 2, p. 202.

† It has been supposed, that Sir Walter Raleigh himself went to Virginia with this colony; but this mistake, it appears, has arisen from a mistranslation of a passage in Heriot's narrative, published in Hackluyt's Voyages. It is thus expressed in the original English: "The actions of those who have been by Sir Walter Raleigh *therein employed*;" which is thus rendered in the Latin translation: "*qui generosum D. Walterum Raleigh in eam regionem comitati sunt.*" See Burk's Hist. of Virg. Vol. 1, p. 55.

‡ Oldmixon, in his British Empire in America, Vol. 1, p. 212, speaks of this expedition as carried on by a *company*, and that it was the first of that kind established in Europe. But it seems, that they were not a regular corporate body, until the reign of king James, who incorporated them by the name of "The governor and company of the West Indies." They were afterwards dissolved by Charles I, it is said, for their mal-administration. Harris's Voyages, Vol 2, p. 202.

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 III. teo, to assist him in his negociations with their
 1585. countrymen, sailed on the 9th of April, 1585, from
 Plymouth.* But, induced by a desire of sharing
 in the plunder of a predatory war, then carried on
 by the English against the Spaniards, in capturing
 their vessels bound home with the treasures of their
 Mexican mines, as well as from unacquaintance
 with a more direct and shorter course to North
 America, he took the southern route by the West
 India islands. He spent some time in cruising
 among these, and in taking prizes; so that it was
 towards the close of June, before he arrived on the
 coast of North America. It is said, that in going
 into the harbour of Wokoken, he lost the ship
 which he himself commanded.† He touched at
 both the islands where Amidas and Barlow had
 landed. Manteo, the faithful Indian whom they
 had carried to England, and was now brought back
 with Sir Richard, became of essential service. His
 knowledge of the language made him useful as an
 interpreter, while his attachment to the persons of
 the English smoothed the difficulties to a free and
 friendly intercourse with his countrymen. Under

* It is said, that Sir Richard was accompanied in this voyage by the celebrated circumnavigator Sir Thomas Cavendish, who, being then a young man of family and fortune, fitted out a ship of 120 tons burthen, called the Tyger, at his own expense, in which he attended Sir Richard, without any profit. Harris's Voyages, Vol. 1, p. 23. Mod. Univ. Hist. Vol. 2, p. 411.

† Mod. Univ. Hist. Vol. 39, p. 236. In Burk's Hist. of Virg. Vol. 1, p. 53, it is said, that "he narrowly escaped shipwreck on Cape Fear."

his guidance they made several excursions, and visited several villages on the islands and the main. In one of these excursions, Sir Richard went, attended by a number of his officers, to an Indian town on the continent, called by some Scroton, by others Aquaseogok,* where he was hospitably received by the inhabitants; but some of them having pilfered a silver cup from the English, of which no restitution was made, Sir Richard gave loose to an imprudent revenge, plundered one of the Indian towns, and destroyed their corn-fields, and was forced to avoid the rage of the natives by immediate embarkation. At this juncture of time, no conduct in him could have been more impolitic, and might well forebode the disastrous conclusion of this first attempt at colonisation. After this outrage, Sir Richard sailed to Hatteras, where he was visited by Granganimeo, the prince who had been so friendly to Amidas and Barlow, the preceding year, and who was, on this occasion, accompanied by Manteco. Of what passed between Granganimeo and Grenville at this interview, the journal of the voyage, it is said, gives no account; but it is supposed, that the settlement of the English in the country, at least of the island of Roanoke, was then agreed on between them, to their mutual satisfaction.† Sir Richard then sailed for that island, and having fixed upon it for the site of his settlement, he remained there for the space of six weeks, probably to see the colony somewhat arranged and set-

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* Burk's Hist. of Virginia, Vol. 1, p. 54.

† Oldy's Life of Raleigh, cited in Holmes's Annals, Vol. 1, p. 119, note 3.

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tled before his departure. The colony consisted of one hundred and eight men;* Mr. Ralph Lane, being their governour, and captain Philip Amidas, titular admiral of the country. Thomas Heriot, a celebrated mathematician, and John Wythe, an ingenious painter, were also of the number of these colonists.† Having disposed all things for his departure, Sir Richard set sail for England on the 25th of August. He shaped his course, it seems, so as to keep in view the American continent which lies between Currituck inlet and the Chesapeake; but nothing is mentioned of any discoveries thereby made by him. He arrived at Plymouth on the 18th of September following, with a rich Spanish

* In Robertson's Hist. of America, b. 9, it is said, that there were one hundred and eighty men; but that is evidently a mistake either in himself or the press, by transposing the figures 108 to 180, or by adding the letter y to the word eight. The list, published in Hazard's Collections, Vol. 1, p. 38, contains 107 persons, which with governour Lane, would complete the number 108, mentioned by Oldmixon, Harris, and the Mod. Univ. Hist.

† Mr. Heriot wrote a topographical description of this part of Virginia (now called North Carolina,) and its natural history, which is preserved in Hackluyt's Voyages. It was translated into Latin by Theodore de Bry, and published in his collection of voyages. It is said, that the famous French philosopher, Descartes, borrowed much of his light from this excellent mathematician; and that the learned Dr. Wallis gave his preference to Heriot's improvements before those of Descartes, although the latter had the advantage of being successor to the former. Mr. Wythe also made several drawings of the figures and dress of the natives, of which copper-plates were afterwards taken and published by de Bry in 1590, with Latin explanations of them. Burk's Hist. of Virginia, Vol. 1, p. 55.

prize, which he had taken on the passage. His proceedings appear to have been highly satisfactory to his employers, or what was then called, The new Virginia Company.

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Soon after the departure of the ships, governour Lane began to make preparation for obtaining a more extensive knowledge of the country. With this view, he proceeded in his boats along the coast to the southward, to an Indian town called Secoton, by their reckoning, distant from Roanoke eighty miles, and lying between the rivers Neus and Pampticoe. To the north they advanced one hundred and thirty miles, to the Chesapeakes, a nation of Indians seated on a small river, now called Elizabeth, which falls into the great bay of Chesapeake, below Norfolk.* To the north-west, they went up Albemarle sound and Chowan river, one hundred and thirty miles, to a nation of Indians called the Chowanocks, inhabiting a little beyond the fork of that river, where one branch takes the name of Meherrin, and the other of Nottoway. The king of this nation, Menatonon, is represented by the adventurers, to have been shrewd beyond the cunning of any of the Indians they had seen. Having collected from the inquiries of the English, the principal subjects of their search, he amused governour Lane and his company, with the story of a copper mine and a

* In the Indian language, the word *Chesapeake* is said to signify, *Mother of Waters*. The obvious application of this name to the great bay so called, would seem to intimate, that this Indian nation must have taken their name from their situation near the Chesapeake bay. See Burk's Hist. of Virginia, Vol. 1, p. 56, who cites Stigh.

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pearl fishery, and with the marvellous description of the source of the Moratuck, now called Roanoke; which he represented as springing out of a rock, so near the sea, that in high winds the surge beat over it. Added to this, there seems to have been at this time a general rumour among the Indians, perhaps designedly propagated by them, of a rich mine, that lay in the interior part of the country high up the Moratuck. Filled with these delusive hopes, the governour now prepared for an expedition up this river, under the full expectation of exploring these advantageous discoveries, and of taking immediate possession of this fancied source of wealth. It is necessary to observe, that Wingina, the Indian king before mentioned, who appears to have been sovereign of the country about the mouth of the Roanoke river, had been always secretly inimical to the English, or to their settling in the country, and was restricted in the exercise of his animosity to them, only by the influence of the friendly Granganemco his brother. This did not, however, prevent him from injuring them, whenever he could do it with secrecy; and it may be inferred from circumstances, that he acted on this occasion, in concert with Menatonon. Immediately before the English set out upon their expedition, the artful Wingina despatched messengers to the several nations of Indians, who inhabited the banks of the Moratuck, to apprize them of their intended excursion, and to spread amongst them suspicions of the evil views and intentions of the English. Lane pursued his course in boats, up the Moratuck; but, strangely confiding in this treacherous prince, who, the better to

deceive him, had furnished him with guides, he had neglected to take any provisions with him, imagining he should be supplied by the natives on each bank. The consequence of which was, that he soon became reduced to extreme difficulties. After rowing four days against a strong current, he found the country wholly deserted, and laid waste by the inhabitants. Still, however, in hopes of better fortune, he pursued his course under the auspices of his guides, until at length they had nothing to subsist on but the flesh of two large dogs, which they were compelled to eat. Their perseverance being now wearied out, they returned to Roanoke island much chagrined and disappointed.*

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In addition to the foregoing disappointment, they had, on their return, the disagreeable intelligence of the death of prince Granganimeo, which happened during their excursion. While this friendly Indian lived, his influence, supported by the authority of Ensenore, their father, had, as before observed, restrained the animosity of Wingina. It is not difficult to account for this authority of Granganimeo, if we believe that their manner of descent was similar to that of the other tribes of North American Indians. The brother of the reigning chief was heir apparent, and succeeded to the sovereignty in bar of the children of the chief.† This rule of descent might probably be founded on a very substantial reason, under a government purely military. It

* Mod. Univ. Hist. Vol. 39, p. 239. Burk's Hist. of Virginia, Vol. 1, p. 57.

† Burk (Hist. of Virginia, Vol. 1, p. 58,) cites, in support of this, the instance of Powhatan, in Virginia.

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would in such case be obviously necessary, that the reigning chief should be capable of discharging the military duties of his station; which an infant or minor, would be incapable of performing. This reason might also apply to an explanation of Wingina's authority as a sovereign during the life of his father, Ensenore; who, now grown old and infirm, and incapable of going into battle with his enemies, might have delegated, if not totally resigned his power into the hands of his eldest son, Wingina. Another circumstance, arising on the death of Granganimeo, deserves to be noticed here; it seems to have been a custom, generally prevalent with the Indians of this part of America and Virginia, to change their name, when any extraordinary change took place either in their circumstances or feelings.* On this occasion Wingina assumed the name of Pemisapan, the etymology of which had probably some allusion either to the event or its consequences; and by this name alone he is designated by some historians.

During the absence of the governour, it had been reported that he and his party were lost; and the little influence, which Ensenore, (who upon all occasions, seems to have partaken in the friendly sentiments of his son Granganimeo, towards the English,) had, with his eldest son Wingina, now called Pemisapan, seems to have been, upon this report, nearly extinguished. Accordingly, Pemisapan was still ever secretly contriving mischief against

* Burk (Hist. of Virginia, Vol. 1, p. 58,) cites here similar instances among the successors of Powhatan, from Stith's Hist. of Virginia, p. 155.

them. He had projected a scheme of starving the English out of the island Roanoke, by neglecting to plant or cultivate it. This scheme, however, seems to have been in some measure defeated, by a combination of fortunate circumstances, which took place in the spring of the following year. The chiefs of several other nations, had manifested an amicable disposition towards governour Lane and his settlers. The king of the Chowanocks, though from his former conduct, he must still have been a secret enemy, sent a present of pearl to Mr. Lane; and Okisko, king of the Weopopomewks, (another powerful nation, possessing all that country from Albemarle sound and Chowan river, to Chesapeake bay), in March, 1586, came himself, with twenty-four of his principal men, to own subjection to the queen of England. The aged and cautious Ensenore, induced thereto, perhaps, more zealously by the pacific conduct of these other chiefs, exerted on this occasion, the little influence he had with his son, and prevailed upon him to relinquish his schemes, and to plant in corn, a considerable extent of ground, both on the island and main land.

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1585.

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This apparent prosperity of the adventurers, added to the influence of Ensenore, preserved peace for a short time with this savage. But on the death of Ensenore, which happened on the twentieth of April, this year, all check on his natural disposition being now removed, he meditated a plan for the utter extirpation of the colonists. Under pretence of solemnizing his father's funeral, he issued secret orders to the Indians, to rendezvous at a certain place, with intent to fall on the English with the

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whole force of the nation. The plot, however, previous to the time fixed for its execution, was discovered to the English, by their prisoner Skiko, the son of Menatonon. An attempt was made to retaliate on the Indians, by seizing their canoes, and thus keeping them in a state of seige on the island; but they took the alarm, and after a loss of six men escaped into the woods. After various stratagems on both sides, Pemisapan was, at last, on the first of June, drawn into an ambush, with eight of his chiefs, and slain.*

The colonists now began to be in so much distress, from want of food, that they were under the necessity of dispersing themselves into different parts of the country, in quest of the means of subsistence. It was, in consequence of this, that captain Stafford, who had, with a small party, been stationed on the southern part of Cape Look-out, to shift for themselves, and to "see if they could spy any sail pass by the coast," sent, on the ninth of June, intelligence to Mr. Lane, that he discovered twenty sail of ships.†

Queen Elizabeth, being now at war with Spain, was advised to attack her settlements in America, and to surprise the Spanish galleons. In prosecution of this scheme, a fleet of twenty sail had been fitted out and placed under the command of Sir Francis Drake. This distinguished naval com-

* Burk's Hist. of Virginia, Vol. 1, p. 57, 60. Holmes's Annals, Vol. 1, p. 122.

† Mod. Univ. Hist. Vol. 39, p. 237. Robertson's Hist. of America, (b. 9.) Vol. 4, p. 166. Burk's Hist. of Virginia, Vol. 1, p. 60.

mander, after many important successes against the Spaniards, in the West Indies and South America, and attacking and reducing Fort St. John's, near St. Augustine's, in Florida, had, according to the special orders of queen Elizabeth, sailed to visit this English colony, and to yield it all possible assistance.* Arriving off Cape Look-out, and discovering a distant fire, the admiral sent his skiff ashore with some of his men, who found captain Stafford and his party there, and took them on board their ships. By their direction, the fleet proceeded the next day, to the place which the English colonists made their port; but some of the ships, being of too great draught to enter, anchored about two miles from the shore, "without the harbour in a wilde roade at sea."† From this place Drake, who had been told that the colony was in distress for want of provisions, sent a letter by captain Stafford to governour Lane, then at his fort on Roanoke island, about six leagues distant, making him an offer of supplies. The next day, Mr. Lane and some of his company going on board the fleet, Drake made them two proposals; either to leave them a ship, a pinnace, and several boats, with sufficient masters and mariners, furnished with a month's provisions, to stay and make further discovery of the country and coasts, and so much additional provision, as would be sufficient to carry them all to England; or, to give them a passage home in his fleet. The first

* Oldmixon's British Empire in America, Vol. 1, p. 214.

† According to the above description of the place where Drake arrived and anchored, it is most probable, that it was what is now called Roanoke inlet.

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proposal was gratefully accepted.* A ship was accordingly selected by Drake, and delivered to the colonists; but before the provisions were entirely received on board, there arose a great storm, that continued three days, and endangered the whole fleet. Many cables were broken, and many anchors lost, and some of the ships, of which number was that destined for the use of the colonists, were compelled to put to sea. Drake now generously making the colony an offer of another ship with provisions, or a passage home, governour Lane, and the principal persons with him, having considered what was expedient, requested the admiral, under their hands, that they might have a passage to England. The rest of their company was now sent for: the whole colony was taken on board;† and the fleet, leaving

* An observation of Holmes, in his *Annals*, (Vol. 1, p. 123.) seems to explain this: "The hope, he says, of finding a rich mine in the interior part of the country, which they had already made an attempt to discover, seems to have greatly influenced their wishes to continue longer in Virginia." In support of this, he cites Hackluyt, iii. 255, 263; adding, "The mine is said to be 'notorious' among the Indians, and to lie up the river Moratuck. The narrator in Hackluyt calls it "a marvellous and most strange mineral;" and the narrator adds, "there wanted no great good will, from the most to the least amongst us, to have perfitted this discoverie of the mine: for that the discovery of a good mine, by the goodness of God, or a passage to the South sea, or some way to it, and *nothing else can bring this country in request to be inhabited by our nation.*" I would observe here, that this indicates very strongly the *motives* to colonisation, which existed generally among the first settlers of Virginia.

† The narrator in Hackluyt (according to Holmes's *Annals*, Vol. 1, p. 122, note 1,) says, that when Drake sent his

America on the eighteenth of June, arrived on the
 twenty-eighth of July, at the English harbour of
 Portsmouth. Thus terminated the first English
 colony planted in America.

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vessels to Roanoke, to bring away a few persons, who were
 left there with the baggage, "the weather was so boisterous,
 and the pinnaces so often on ground, that the most of all we
 had, with our cards, books, and writings, were by the sailors,
 cast overboard." This accident may have deprived us of a
 more full and accurate account of the proceedings and disco-
 veries of this colony, during its year's residence in Virginia,
 than we otherwise have.

SECTION IV.

Attempts to relieve the first colony under governour Lane—A second colony at the same place under governour White—Sir Walter Raleigh assigns his patent—The whole of the second colony lost—Gosnold's voyage to New England—Sir Walter Raleigh's endeavours to find out the second colony at Roanoke—captain Pring's expedition—Captain Bartholomew Gilbert's voyage—Captain Weymouth's.

SOME writers* think it proper to apologize for Sir Walter Raleigh, on account of the misfortune of the first colony, by observing, that it was not at all owing to any negligence in him ; for he continually pressed the company or those concerned with him in interest, to reflect on the necessity of supporting the colony in time ; and so solicitous was he in this business, that finding the fleet, which was preparing for that purpose under the command of Sir Richard Grenville, went on but slowly, he proposed that the first ship, that was completely manned and equipped, should be sent without staying for the rest ; which was done ; but when she arrived at the island of Roanoke, which was within a few days after Drake had departed, they found it deserted. The master of the vessel, not being able to get any information concerning them, returned to England. In a fortnight after this, Sir Richard Grenville arrived with his squadron of three small ships, but to his great disappointment found not a man upon the

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Attempt
to relieve
the first
colony un-
der gover-
nour Lane.

* Oldmixon's British Empire in America, Vol. 1. p. 214.
Harris's Voyages, Vol. 2. p. 202.

island. After searching in vain for the colony he had left the year before without being able to learn what had befallen it, he resolved to try the experiment of another settlement, and accordingly placed fifteen men, (some authors say fifty,) on the island. He left them furnished with all necessaries for two years, and gave them the strongest assurances, that they should be constantly and regularly supplied. But this handful of unfortunate men was soon after over-powered and destroyed by the Indians.

1587. Not discouraged by these abortive efforts to plant a colony in America, Sir Walter Raleigh, with a perseverance natural to great minds in arduous undertakings, resolved to attempt at making another settlement. By an indenture of grant bearing date the 17th of January, 29th of Eliz. 1587 (new style) he granted unto John White,* and twelve others, (therein mentioned,) “free libertie to carrie with them into the late discovered barbarous land, and countrie, called *Assamacomock*; alias *Wingandacoia*; alias *Virginia*, there to inhabit with them, such and so many of her Majestie’s subjects, as shall willingly accompany them, and also divers and sundrie other prerogatives, jurisdictions, royalties and pre-eminencies.”—By this indenture also, it would seem, he constituted a corporation by the name of the governour and assistants of the city of Raleigh in Virginia, “a city intended to be erected and builded in Virginia aforesaid.”* Captain John White was made governour, and the twelve assistants formed his council, in whom conjointly were vested the

* See the recital of the Indenture in Sir Walter Raleigh’s indenture of assignment, in Hazard’s collections, Vol. 1, p. 42.

legislative and executive powers for the government of the colony. A small fleet of three ships was fitted out and placed under the command of the governour captain White. About one hundred and seventeen adventurers and settlers, consisting of men, women, and children,* with a plentiful supply of provisions, were embarked on-board the fleet. They were directed by Sir Walter to fix their plantation and erect a fort at the bay of Chesapeake, which had been discovered by governour Lane the preceding year. Thus prepared for a permanent settlement, they arrived on the 22d of July, 1587, at Hatteras. The governour, with forty of his best men, went on board the pinnace, intending to pass up to the island of Roanoke, in the hope of finding the fifteen Englishmen, whom Sir Richard Grenville had left there the year before; and, after a conference with them concerning the state of the country and of the Indians, to return to the fleet, and proceed along the coast to the bay of Chesapeake, according to the orders of Raleigh. But no sooner had the pinnace left the ship, than a gentleman, instructed by Fernando, the principal naval commander, who was destined to return soon to England,† called to the

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* See a list of their names in Hazard's collections, Vol. 1. p. 40. Although these adventurers composed in reality the *third* English colony attempted to be settled in America, consisting the before-mentioned fifteen men as one, yet as Robertson and other historians speak of these above under White as the *second* colony sent out, their authority is here followed.

† In the Indenture of Jan. 7th, 1587, above-mentioned, (under which this colony was attempted to be planted) mention is made of "Simon Fernando of London," as one of the

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1587.

sailors on board the pinnace, and charged them not to bring back any of the planters, excepting the governour and two or three others, whom he approved, but to leave them in the island ; for the summer, he observed, was far spent, and therefore he would land all the planters in no other place. The sailors on board the pinnace, as well as those on board the ship, having been persuaded by the master to this measure, the governour, judging it best not to contend with them, proceeded to Roanoke. At sunset he landed with his men at that place in the island, where the fifteen men were left ; but discovered no signs of them, excepting the bones of one man, whom they supposed to have been killed by the savages. The next day the governour and several of his company went to the north end of the island, where governour Lane had erected his fort, and his men had built several decent dwelling houses, the preceding year ; hoping to find here some signs, if not the certain knowledge, of the fifteen men. But, on coming to the place, and finding the fort razed, and all the houses, though standing unhurt, overgrown with weeds and vines, and deer feeding within them, they returned in despair of ever seeing their looked-for countrymen alive. Orders were given the same day for the repair of the houses, and for

grantees, and who was probably also one of the twelve assistants or counsellors. His name appears also in the list of colonists, (published in Hazard's Collections, Vol. 1, p. 40.) " who remained to inhabit in Virginia" at this time, they could not therefore be the same persons, but I find it related as above in Holmes's Annals, Vol. 1, p. 125, who probably took it from some authentic writer.

the erection of new cottages. All the colony, consisting of one hundred and seventeen persons, soon after landed, and began to make the necessary preparations for their accommodation and comfort. It was not long before they were visited by Manteo, the faithful Indian, who had accompanied Amidas and Barlow to England ;* from whom they received some intelligence of the fate of their countrymen. He informed them, that the natives secretly set upon

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1587.

* Although the names of two Indians, Manteo and Towaye, are mentioned in the list of adventurers in this expedition, published in Hazard's collections, vol. 1, p. 40. as " Savages that were in England and returned home into Virginia with them ;" which seems to be repeated in Holmes's Annals, vol. 1, p. 127, note, 1. ; yet there is evidently a mistake in this supposition, although it may be so in Hackluyt ; not merely because it is expressly said by Oldmixon, in his British Empire in America, vol. 1, p. 212, and Burk in his History of Virginia, vol. 1, p. 51, that Manteo and Wanchese, the two Indians who had been in England, returned with governour Lane and his colony under Sir Richard Grenville, but that it would be otherwise impossible to suppose, that Manteo should be said to have come to captain White's colony soon after their arrival, and given them some information of the loss of the fifteen men left by Grenville, as he is said by most writers to have done, if he had not been in the country during the time when these fifteen men resided at Roanoke. The improbability also of governour Lane's coming out with a colony and leaving these two Indians in England, when he must have been certain of their utility to them, forms a strong ground against the supposition. The difference between the names " Towaye" and " Wanchese" appears to be immaterial, as Indians are said to change their names frequently, and the name of Towaye most probably means the same person as that of Wanchese. It is possible, that they were mentioned in the list of colonists, because, being friendly to them, they might make their constant residence with them.

SECT. them, and killed some; the rest fled into the
IV. woods.

1567.

The colony had now been but a few days on the island, when Mr. Howe, a gentleman who was one of the council, or court of assistants as it was called, was attacked and barbarously murdered by the natives, as he happened to stroll about at a little distance from the fort, which the new planters had repaired or erected. Soon afterwards a party was sent under the command of captain Stafford, accompanied by Manteo, to a place called *Croatan*, which it seems was the name of an Indian town, situated near Ocracock inlet, and on the northern part of the island of which Cape Look-out is the southern extremity. At first, the natives seemed determined to oppose the captain's debarkation; but, through the persuasion of Manteo, they were induced to alter their resolution, lay down their arms, and enter into an alliance against the Indians of Scroton, on the continent. Upon this occasion, it was, that they received further information of the fate of the little colony left by Grenville. Seven of the fifteen, it seems, had been killed by the Indians of Scroton, who fell upon them by surprise, and set fire to their houses in the night; while the remaining eight escaped to the water-side, went over to a little island near Cape Hatteras, and were never since heard of.* The

* The above account of the destruction of these unfortunate men, is from the *Mod. Univ. Hist.* Vol. 39, p. 239; but it is somewhat differently related in an extract from Hackluyt, iii, 283, 284, published in *Holmes's Annals*, Vol. 1, p. 126, note 1: "About a week afterward, some of the English people going to Croatan, were told by the Indians, that the 15

reader will recollect, that the Indians of Scroton were the same tribe or nation, upon whom Sir Richard Grenville had exercised such an imprudent revenge for the theft of a silver cup. In consequence of this intelligence, it was now resolved to fall upon the Scrotons; upon which expedition, the governour set out in person, attended by twenty-eight select soldiers, well armed. Being informed of the situation of their principal town, he attacked it in the night, broke in with the greatest impetuosity; but was astonished to find that he had killed and wounded several of his allies, the Croatans. The Scrotons, it seems, expecting an attack from the English settlement, to revenge the ruin of Grenville's little colony, and the death of Mr. Howe, had evacuated the place; and, after their departue, the Croatans had unluckily taken possession of it.

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1587.

Two small events about this time, have been thought by historians, worth recording. On the thirteenth of August Manteo, the friendly Indian, was baptized at Roanoke, according to a previous order of Sir Walter Raleigh; and, in reward of his

Englishmen, left by Grenville, were surprised by 30 Indians; who, having treacherously slain one of them, compelled the rest to repair to the house containing their provisions and weapons, which the Indians instantly set on fire; that the English, leaving the house, skirmished with them about an hour; that in this skirmish, another of their number was shot in the mouth with an arrow, and died; that they retired fighting to the water-side, where lay their boat, with which they fled towards Hatteras; that they landed on a little island on the right hand of the entrance into the harbour of Hatteras, where they remained a-while, and afterward departed, whither they knew not."

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IV

1587.

fidelity and services to the English, the governour created him Lord of Dassamenpeak, an Indian nation in the neighbourhood. And on the eighteenth, Mrs. Dare, a daughter of governour White, and wife of Ananias Dare, (one of the assistants,) was delivered of a daughter at Roanoke, who was baptized on the next Sunday, by the name of Virginia; because she was the first English child born in the country.*

The affairs of the colony seem to have been now considered in so prosperous a way, and the colonists so well pleased with their situation, that when the ships were about to return to England, and it became necessary for some person to return with them in order more speedily to promote further supplies, they all declined, except one, who was judged to be unequal to the office; and the governour, by mere importunity and solicitation, was constrained, much against his wishes, to undertake it.† He sailed from Roanoke on the twenty-seventh of August, and arrived in England at a most unfavourable time indeed, for the purposes he had undertaken. He found the nation in universal alarm, at the formidable preparations of Philip II, of Spain, to invade England, and collecting all its force to oppose the fleet, which the Spaniards arrogantly denominated the Invincible Armada. Raleigh, Grenville, and all the most zealous patrons of the new

* Oldmixon's *British Empire in America*, Vol. 1, p. 215, 216. *Mod. Univ. Hist.* Vol. 39, p. 239. *Holmes's Annals*, Vol. 1, p. 124. *Burk's Hist. of Virginia*, Vol. 1, p. 63.

† *Burk's Hist. of Virginia*, Vol. 1, p. 64. *Harris's Voyages*, Vol. 2, p. 203.

settlements, were called to act a distinguished part in those measures of defence, which the public danger demanded and rendered indispensable.

SECT.
VI.

1588.

Raleigh, however, mingled with his exertions to defend his native country, some attention to the situation of the colony he had planted. Early in the following year he found leisure to fit out for its relief, at Biddeford, a small fleet, the command of which was given to Sir Richard Grenville; but the apprehensions from the Spanish armament still increasing, the ships of force prepared by Raleigh were detained in port, by order of the queen, for the defence of their own country; and Sir Richard Grenville was specially and personally commanded, not to depart out of Cornwall; where his services under Sir Walter Raleigh, who was mustering and training the forces, as lieutenant of the county, were deemed necessary.* Governour White, it seems, was also at this time, one of the queen's council of war, and was, therefore, by reason of his office, obliged to remain in England.† These patrons of the colony still, however, found means to make some efforts for their relief in this year. Two small pinnaces, in which were fifteen planters, with suitable supplies of provision, were fitted out, and sailed for Virginia. Being more intent on a profitable voyage, than on the relief of the colony, the person or persons under whose direction they were placed, went in chase of prizes; until at length, two men of war from Rochelle, falling in with them, disabled and rifled them, and obliged them to put back for Eng-

* Marshall's Life of Washington, Vol. 1, p. 18.

† Holmes's Annals, Vol. 1, p. 130.

SECT. land.* Thus the whole year of 1588 elapsed with-
IV. out furnishing the colony with supplies.

1589.
Sir Walter
Raleigh
assigns
his patent
to others.

Soon after this, the attention of Raleigh being directed to other more splendid objects, he assigned his patent to Thomas Smith, William Sanderson, and several others, merchants and adventurers, whose names are enumerated in the indenture of assignment, bearing date the 7th of March, 31 Eliz. (1589,) making at the same time a donation to the assignees, of one hundred pounds lawful money of England, for the encouragement of their designs.† Although the Spanish armada had been destroyed in the course of the preceding year, and the nation freed from the alarm of invasion, yet, it seems, that they were as anxiously engaged this year in retaliating on the Spaniards, by an expedition against them; so that difficulties, similar to those of the former year, might have operated to prevent any relief to the unfortunate colonists.

1590.
The whole
of the se-
cond colo-
ny lost.

It was not till the year after the assignment, that governour White could go to their assistance. Above two years had now elapsed, since he had left his infant colony, under the full expectation of his speedy return to them. On the 20th of March, 1590, he sailed from Plymouth with three ships; but, taking the usual circuit by the West Indies, he, perhaps undesignedly, suffered himself to be too much delayed in the capturing of Spanish prizes. Having arrived at Hatteras on the 15th of August, they fired some cannon to give notice of their arri-

* Holmes's Annals, Vol. 1, p. 129.

† See this indenture of assignment at large, in Hazard's Collections, Vol. 1, p. 42.

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IV.

1590.

val, and sent some men on shore at the place where the colony had been left; but no signs of their countrymen could be found. In attempting the next day, to go to Roanoke, one of the boats in passing a bar, was half filled with water; another upset, and seven men were drowned. This disaster discouraged the other sailors to such a degree, that they all seemed resolved to abandon the research: but by the persuasion and authority of the governor and one of their captains, they resumed it. The governor accordingly, taking with him nineteen men in two boats, went towards the place where he had left the English colony, and found on a tree at the top of the bank, the letters CRO, carved in fair Roman characters. This he knew to be intended to mark the place, where the planters might be found: for they had secretly agreed with him, at his departure for England, to write or carve on the trees or posts of the doors, the name of the place where they should be seated, because they were at that time preparing to remove fifty miles from Roanoke island, into the main land. It had also been agreed, that in case of their distress, they should carve over the letters a cross; but, to the great comfort and encouragement of their English friends, they found not this sign. Coming to the spot where the colony had been left, they found the houses taken down, and the place very strongly inclosed with a high palisade of trees, in the form of a fort. At the right side of the entrance, on one of the chief trees or posts, the bark of which had been taken off five feet from the ground, was carved in fair capital letters, CROATAN, without the sign of distress.

SECT.
IV.

1590.

Within the palisade they found many bars of iron, pigs of lead, iron shot, and other things of bulk and weight, scattered about, and almost overgrown with grass and weeds. In the end of an old trench, they found also, five chests, that had been carefully buried and hid by the planters; three of which governor White recognised as his own, together with many other things of his, spoiled and broken: such as his books torn from their covers, the frames of his pictures and maps rotten and spoiled with rain, and his armour almost eaten through with rust. Concluding from the circumstance of no signal of distress being left, as agreed upon, that the colony was safe at the place thus designated, they returned to their ships, and determined to sail for Croatan on the next morning. But, a violent storm arising that night, the ships were separated from each other, and having lost their anchors and cables, durst not venture in with the shore. So they all shifted for themselves, and with various fortunes, arrived in England and Ireland.* What became of the unfortunate colonists, whom White had left in 1587, time has never yet developed. From the palisaded fort, it would seem, that they had been either attacked by, or were in much apprehension of danger from the natives before their removal. The Indians of Croatan, having been always friendly to the English, through the influence of Manteo, who, it seems, belonged to that tribe, and was a native of that place,†

* Oldmixon's British Empire in America, Vol. 1, p. 217.
Holmes's Annals, Vol. 1, p. 130.

† Holmes's Annals, Vol. 1, p. 131.

they were induced, probably by that circumstance, to remove thither. After which no traces of them appear.

SECT.

IV.

1602.

This unfortunate event seems to have chilled the ardour of the English for colonisation in America for many succeeding years. It was not until the year 1602, the last year of the reign of Elizabeth, that any voyage of importance was undertaken by them to North America, some of the Virginia company, probably the most zealous of those to whom Sir Walter Raleigh had assigned his patent, resolved to fit out a vessel for that country, and accordingly made choice of captain Bartholomew Gosnold for the commander thereof, who had been one of the adventurers in a former voyage thither, and was an excellent mariner. He sailed from Falmouth on the 26th of March, 1602, in a small vessel, with thirty-two persons on board, of whom it was proposed, that twelve should stay behind and form a settlement, in case he should meet with any place which he should judge convenient for that purpose. Instead of following former navigators in their unnecessary circuit by the West India isles and the Gulf of Florida, Gosnold steered due west, as nearly as the winds would permit, and is said to be the first English commander, who reached America by this shorter and more direct course.* He arrived

Gosnold's
voyage to
New Eng-
land.

* Although Robertson, and other historians after him, have observed as above, that Gosnold was the first English commander who sailed to America by this shorter course, yet, unless it be understood of that part of America then called Virginia, it cannot well be admitted. For undoubtedly Cabot, (who, though not an Englishman, yet sailed under English

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IV.

1602.

on the 11th of May in nearly forty-three degrees of north latitude on the coast of Massachusetts. Here they met with a shallop with a mast and sails, having on board eight Indians, with whom the English had friendly intercourse.* Sailing along the shore they the next day discovered a headland in the latitude of forty-two degrees, where they came to anchor; and, taking a great number of cod-fish at this place, they called it Cape Cod, a name it still retains, holding their course along the coast as it stretched toward the south-west they discovered, on the twenty-first of May, an island, which they called Martha's Vineyard; not that, it seems, which now bears that name, but a small island now called Noman's Land. Coming to anchor, two days afterwards, at the north-west part of this island, they were visited the next morning by thirteen of the natives, with whom they

colours and with English seamen,) and all those, who had previously visited Newfoundland, particularly Sir Humphrey Gilbert, sailed this shorter and direct course.

* These natives first hailed the English; who answered them. After signs of peace, and a long speech made by one of the Indians, they went boldly on board the English vessel, "all naked," saving loose deer skins about their shoulders, "and neer their wastes seal skins tyed faste like to Irish dimmie trowses." One of them, who seemed to be their chief, wore a waistcoat, breeches, cloth-stockings, shoes, and a hat; one or two others had a few things of European fabric; and "these with a piece of chalke described the coast thereabouts, and could name Placentia of the Newfoundland; they spake divers christian words." Their vessel is supposed to have belonged to some unfortunate fishermen of Biscay, wrecked on the coast. Holmes's Annals, Vol. 1, p. 142.

had a friendly traffic. On the twenty-fourth they discovered another island, which they named Dover Cliff, now called Gay Head ; and the next day came to anchor at a quarter of a mile from the shore, in a large bay, which they called Gosnold's Hope, which is said to be the same as that now called Buzzard's Bay. On the northern side of this bay was the main land ; and on the southern, four leagues distant, was a large island, which, in honour of the queen, they called Elizabeth. On the twenty-eighth they consulted together upon a fit place for a plantation ; and concluded to settle on the western part of Elizabeth island. In this island there is a pond or lake of fresh water, two miles in circumference, in the centre of which is a small rocky islet of about an acre of ground, and on this islet they began to erect a fort and store-house. While the men were occupied in this work, Gosnold crossed the bay in his vessel ; went on shore ; trafficked amicably with the natives ; and having discovered the mouths of two rivers, supposed to be the two harbours of Apooneganset and Pascamanset, on one of which the town of New Bedford is now built, in the southern part of the State of Massachusetts, returned in five days to the island. In nineteen days the fort and store-house were finished ; but discontents arising among those who were to have remained in the country, it was concluded, after deliberate consultation, to relinquish the design of a settlement. Having loaded their ship with a cargo of sassafras and cedar wood, furs, and some other commodities of the country, sufficient to indemnify the charges of the expedition, they set sail for England. The whole company,

SECT.

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1603.

SECT. having left their little fort on the 18th of June, ar-
 IV. rived at Plymouth the 23d of July following.*

1603. It would be doing great injustice to Sir Walter
 Sir Wal- Raleigh to omit an event, appertaining to this year,
 ter Ra- which displays both his sense of honour and huma-
 leigh's en- nity in a very conspicuous point of view. Uneasy,
 deavours to find out the second colony at Roanoke. as he manifestly appears to have been, at the aban-
 donment of the colony left at Roanoke in 1587, and
 which had been sent there under his auspices, he
 had sent vessels four different times prior to the
 present instance, at his own charges, for their relief;
 but these had returned without doing any thing ef-
 fectual; some having followed their own profit, and
 others returned with frivolous excuses. Still not
 abandoning all hope of finding them, he resolved to
 make one effort more to discover and relieve them.
 Having accordingly purchased and fitted out a bark
 for that purpose, he gave the command of her to
 Samuel Mace, an able mariner and an honest, sober
 man, who had been at Virginia (North Carolina)
 twice before. He sailed from Weymouth in March,
 1602, and fell on the American coast; in about the
 thirty-fourth degree of north latitude; spent a month
 there; proceeded along the coast; but returned

* Harris's voyages, Vol. 2, p. 219. Modern Universal History, Vol. 39, p. 240. Holmes's Annals, Vol. 1, p. 143. The following note from Holmes's Annals, *ibid.* may perhaps gratify the curious. In 1797 the reverend Dr. Belknap with several other gentlemen went to the spot, which was selected by Gosnold's company on Elizabeth Island, and had the supreme satisfaction to find the cellar of Gosnold's store-house: the stones of which were evidently taken from the neighbouring beach; the rocks of the islet being less moveable, and lying in ledges." Belknap's Biog. ii, 115.

home without any thorough attempt to effectuate the purpose of the voyage. They offered an excuse, either real or pretended, that the extremity of weather and the loss of some principal ground tackle forced and deterred them from seeking the port of *Hatteras*.*

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1602.

The voyage of *Gosnold*, however inconsiderable it may appear, is said to have had important effects. He had found a healthy climate, a rich soil, and good harbours, far to the north of the place where the English had attempted to make a settlement. Its distance from England was diminished, almost a third part, by the new course he had pointed out. The pacific reign of *James* had now succeeded to that of *Elizabeth*, whose government, as well from her parsimony, as from the happy content of her subjects under it, had not been favourable to colonisation. In addition to which, the frequent wars with *Spain*, which had afforded her subjects such constant employment, and presented to them such alluring prospects both of fame and wealth, having now ceased under *James*, persons of high rank and ardent ambition became impatient to find some exercise for their activity and talents. New plans for establishing colonies in America were the result. Under all these circumstances, the reverend Mr. *Richard Hackluyt*, a prebendary of the cathedral of *Westminster*, (to whom England is said to have been more indebted for its American possessions than to any other man of that age, and whose valuable collection of voyages and discoveries, published by

1603.
Captain
Pring's
expedi-
tion.

* *Harris's voyages*, Vol. 2, p. 219, 220.

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1603.

him in the year 1589, diffused a relish among his countrymen for the sciences of geography and navigation,) was induced to project a scheme for sending in the year 1603, a small fleet on a voyage, similar to that of Gosnold's, and prevailed upon several gentlemen and merchants of Bristol to embrace and join in the undertaking.* Previous to any preparations, for this purpose, it is said to have been deemed by them necessary to apply to Sir Walter Raleigh, who was still looked upon as the proprietor of Virginia, in order to procure his licence. On Mr. Hackluyt's application to Sir Walter, they received all the encouragement they could desire; for he not only granted them a licence under his hand and seal, but also made over to them all the profits which should arise from the voyage. After they were thus empowered, they raised a joint stock of a thousand pounds, and fitted out two small vessels, the one called the *Speedwell*, commanded by captain Martin Pring, of the burden of fifty tons, with thirty men and boys; the other a bark of 26 tons, called the *Discoverer*, commanded by Mr. William Brown, who had under him a mate and eleven men, and a boy.† These

* It is said in Harris's *Voyages*, Vol. 2, p. 222. that Mr. Hackluyt "had a prebend in the cathedral of Bristol," and in the *Modern Universal History*, Vol. 39, p. 240, that he was "a Prebendary in the cathedral of Bristol." This corresponds with his influence with the Bristol merchants. He is however styled, "Prebendary of Westminster," in the first Virginia charter of 1606, and by Robertson. He might, perhaps, have had a prebend in both cathedrals at different times.

† These vessels appear very small to us at this day for such long voyages; but, according to Hume, such was the mode of building them at that time. See his Appendix to queen Elizabeth's reign.

vessels were victualled for eight months, and had a large cargo on board, consisting of all sorts of goods that were deemed proper for barter in that country. They sailed from King's Road, near Bristol, on the 20th of March, 1602-3. Being hindered by contrary winds, they put into Milford Haven, where they continued till the 10th of April following, and then proceeded on their voyage. They did not pursue the short route, which Gosnold took, but went by the Azores, and arrived without any remarkable accident, in the beginning of June, on the coast of North America, between the forty-third and forty-fourth degrees of north latitude, among a multitude of islands, in the mouth of Penobscot bay. Ranging the coast to the south-west, and passing the Saco, Kennebunk, York, and Piscataqua rivers, they proceeded into the bay of Massachusetts. They went on shore here, but not finding any sassafras-wood, the collection of which was a great object of their voyage, they coasted further along, till they entered a large sound, supposed to be what is now called the Vineyard sound, and came to an anchor on the north side of it. Here they landed at an excellent harbour in a bay, which, in honour of the mayor of Bristol, they called Whitson bay; mentioned to be in about forty-one degrees and some few minutes north latitude. Having built a hut, and inclosed it with a barricade, some of them kept constant guard in it, while others were employed in collecting sassafras in the woods. The natives came and trafficked with them, forty or fifty in a company, and sometimes upward of an hundred, and would eat and drink, and be merry with

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SECT. them. Observing a lad in the company, playing
IV. upon a guitar, they seemed much pleased at it, got
1603. round about him, and taking hands, danced twenty
or thirty in a ring, after their manner. It was ob-
served, that they were more afraid of two mastiff
dogs, which the English had with them, than of
twenty men ; so that when our voyagers wished to
get rid of their company, they let loose one of these
mastiffs, upon which the natives would immediately
shriek out, and run away to the woods. After re-
maining here about seven weeks, the bark was des-
patched, well freighted with sassafras, for England.
Soon after her departure, some alarming appearances
of hostility began to be manifested on the part of the
Indians ; which might, probably, be owing to the
above-mentioned improper conduct towards them,
as well as the erecting a fortification in their coun-
try ; for not long afterwards, when most of the men
were absent from the fort, a large party of Indians
came and surrounded it, and would probably have
surprised it, if the captain of the ship had not fired
two guns, and alarmed the workmen in the woods.
This induced them to accelerate the lading and de-
parture of the ship, for which they had procured a
very valuable cargo of skins and furs, in exchange
for the commodities which they had bartered with
the Indians. Amongst the curiosities which they
brought back with them, was a canoe, or boat used
by the inhabitants, made of the bark of the birch
tree, sewed together with twigs, the seams covered
with rosin or turpentine ; and though it was seven-
teen feet long, four broad, and capable of carrying
nine persons, it did not weigh sixty pounds. These

boats the inhabitants rowed, or rather paddled, with two wooden instruments, similar to baker's peels, by which they went at a great rate. On the day before the embarkation of the English, an incident occurred, which seemed to confirm the suspected hostility of the natives. They came in great numbers to the woods where the English had cut the sassafras, and set fire to it; which seemed to be designed to let them know, that they would preserve nothing in their country, which should invite such guests to visit them again. On the ninth of August our voyagers quitted the coast, and sailed for England, arriving in the mouth of the Bristol channel in five weeks; but meeting there with contrary winds, they could not reach King's road before the second of October: and they had the satisfaction of finding that their bark was safely arrived a fortnight before them.*

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In the same year also, and while Pring was employed in this voyage, captain Bartholomew Gilbert, who had been the year before with captain Gosnold, was sent by some merchants of London, on a further discovery, to the southern part of Virginia; it being intended also, that he should search for the lost English colony. Sailing from Plymouth on the tenth of May, in a bark of fifty tons, by the way of the West Indies, where they made a short stay, they arrived on the 25th of July, off the Capes of Chesapeake bay, which Gilbert was very desirous of entering; but the wind blowing hard, with a high sea, though they beat about for two or three days,

Captain
Bartholo-
mew Gil-
bert's voy-
age.

* Harris's Voyages, Vol. 2, p. 222. Mod. Univ. Hist. Vol. 39, p. 240. Holmes's Annals, Vol. 1, p. 145.

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IV.

1603.

they could not get in, and were obliged to bear away to the eastward. On the twenty-ninth they anchored about a mile from the shore; and the captain, with four of his best men and two lads, landed in their boat. Being provided with arms, he and his men marched some short distance up into the country: but, in their march, they were set upon and overpowered by the natives, and all killed; and it was not without difficulty, that the two young men who were left with the boat, could reach the ship again, to bring the news. They being now, in all, but eleven men and boys in the ship, were afraid to venture the loss of any more of their small company; and their provisions growing short, the master, Henry Sute, who had taken the command, resolved, though they were in extreme want of wood and water, to return homewards; which they did, and arrived in the river Thames about the end of September.*

* Harris's Voyages, Vol. 2, p. 223. Holmes's Annals, Vol. 1, p. 146. The above account of Gilbert's voyage is extracted from Harris's Voyages, with which Holmes's Annals correspond. But it may be proper to be informed, that Oldmixon in his *British Empire in America*, Vol. 1, p. 219, gives a different relation of this expedition. He says, that "Gilbert proceeded from the Carribee islands to the bay of Chesapeake, in Virginia, *being the first that sailed up into it, and landed there.* The Indians set upon him and his company in the woods; and captain Gilbert and four or five of his men, were killed by their arrows: upon which his crew returned home." But, as the above mentioned collection of voyages by Harris, is not only posterior in time, but also rather a more authentic work than Oldmixon's, the narration of the former is here adopted in the text. There is an obscurity, however, in Harris's account of it as to the *place* where Gilbert was killed. As only a day or two intervened between his quitting the capes of Che-

The pacific disposition of king James, and his inexperience in the usage and law of nations, had induced him to suppose, that by his mere accession to the throne of England, peace was thereby restored between England and Spain, he having been always before, as king of Scotland, in amity with Spain. He had on the 23d of June, 1603, before any terms of peace were concerted, or even proposed by Spain, recalled all the letters of marque that had been granted by Elizabeth against the nation; and, although a sort of peace actually existed between Spain and England from the commencement of his reign, yet it was not until the 18th of August, 1604, that the treaty of peace was signed between the two nations.* This event removed many of the obstacles that stood in the way of the British trade, and opened to their ships a free access to many countries, to which they had not before resorted. The old passion for the discovery of a north-west passage, now revived again in its full vigour. With a view to this discovery, two noblemen of the highest rank and influence in the kingdom, were induced to send out a ship under the command of captain George Weymouth. Writers who have mentioned this voyage, differ so widely, and give such contradictory accounts of it, that it has become scarcely intitled to notice. It seems that they sailed on the last day of May, 1605, from Dartmouth, (some say,

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1604.

1605.

Captain
Wey-
mouth's
voyage.

sapeake and the time of his landing, it would seem that it could not be higher to the north-eastward than the Hudson's river. More probably, however, some where along the sea-coast of Maryland, or state of Delaware.

* Hume's Hist. of Eng. end of ch. 45, in James I, reign.

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1605.

from the Downs,) and met with nothing of consequence, till such time as they judged themselves to be very near the coast of what was then called Virginia; but the winds carrying them to the northward, in the latitude of $41^{\circ} 30'$, and their wood and water beginning to grow extremely short, they became very desirous of seeing land. By their charts they had reason to expect it, and therefore bore directly in with it, according to their instructions, yet they found none in a run of almost 50 leagues. After running this distance they discovered several islands, on one of which they landed, and called it St. George.* Within three leagues of this island, they came into a harbour, which they called Pentecost harbour, because it was about Whitsuntide they discovered it.† They then sailed up a great river forty miles;‡ set up crosses in several places, and had some traffick with the natives. In July they returned to England, carrying with them five Indians; one a Sagamore, and three others of them, persons of distinction, whom they had taken as prisoners.§

* In Harris's Voyages, Vol. 2, p. 223, this island is said to be that which is now called Long island, near New York.

† In the Mod. Univ. Hist. Vol. 39, p. 240, this harbour is said to be the mouth of Hudson's river.

‡ This river is said by Oldmixon, in his British Empire in America, Vol. 1, p. 220, to have been "the river of Powhatan," now called James's river, in Virginia. Dr. Belknap (American Biog. ii, 149,) is satisfied, that it was the Penobscot, in Maine; but from the Mod. Univ. Hist. Vol. 39, p. 240, it would seem to have been the Hudson's; which is the most probable, if (according to Harris's Voyages, just cited,) the island above-mentioned was Long Island.

§ See Harris's Voyages, Vol. 2, p. 223. Holmes's Annals, Vol. 1, p. 150.

SECTION V.

The progress of the French in settling colonies in America—A settlement of convicts on the Isle of Sables, by the French—Chauvin's voyages to the St. Lawrence—Pontgrave's voyage to the same—The Sieur de Mont's commission, and voyages under it—His patent revoked—Pontreincourt's endeavours to fix a settlement at Port Royal, Nova Scotia—The Sieur de Mont obtains a restoration of his grant—and establishes the first permanent colony in Canada, under the conduct of Champlain.

THE connection which necessarily subsists between the events attending the early settlements of the French in Acadia, now called Nova Scotia, and Canada, and those of the former British colonies in North America, must apologise for a short digression here, in taking a cursory notice of the early progress of those French settlements. In doing this it will be necessary to carry the attention of the reader a few years back.

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V.

1598.

The progress of the French in settling colonies in North America.

That great and good monarch, Henry IV, of France, (having acceded to the throne of that kingdom in the year 1589,) as soon as he had defeated his enemies, the Guise faction, and obtained quiet possession of the crown, with a liberality of mind, which always marked his character, issued his edict of the 4th of July, 1590, whereby he revoked those extorted from his predecessor by the Leaguers, and established religious liberty of conscience throughout his dominions. A restless disposition, however, which appears to have too much attended the conduct of the Hugonots or Protestants of France,

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1598.

throughout their unhappy civil wars of the sixteenth century, did not permit them to rest quiet with these concessions of Henry.* Indeed, as he had been a Protestant and one of their leaders, and had obtained the crown principally by their means, they might naturally look up to him for greater favours than a mere toleration: Be this as it may, he thought it proper to yield to the importunities of their deputies, who had for that purpose waited upon him at Nantz, where he then was, by issuing another edict, bearing date the 13th of April, 1598, since well known and celebrated in history under the emphatic denomination of "The Edict of Nantz;" the revocation of which by Louis the fourteenth, in the year 1685, is said to have been productive of much mischief to France for many succeeding years. By this edict of Henry, the Protestants were, not only restored to the free enjoyment of their religion, and a safe protection in their civil rights by the establishment of particular tribunals of justice for them, but they were also advanced to an almost equal share of political liberty, by a free admission to all employments of trust, profit, and honour in the state.†

France, having thus recovered some tranquillity after fifty years of internal commotion since her last attempts at colonisation in 1549,‡ was now enabled

* The Hugonots, or Protestants of France, are said to have been at this time, about a twelfth part of the nation.—Voltaire's Age of Lewis XIV, Vol. 2, p. 183.

† Mod. Univ. Hist. Vol. 24. p. 334, 342, 377.

‡ See before, p. 41.

to exercise again, the enterprising talents of her citizens. In the same year in which the Protestants obtained from Henry the edict of Nantes, (1598,) the Marquis de la Roche, a Breton gentleman, receiving from the king a commission to conquer Canada, and other countries, not possessed by any Christian prince, sailed from France, in quality of lord-lieutenant of those countries, taking with him a person of the name of Chetodel, of Normandy, for his pilot. The marquis, having most absurdly pitched upon the isle of Sables, (which lies about fifty leagues to the south-east of Cape Breton, is about ten leagues in circumference, and is itself a mere sand-bank,) as a proper place for a settlement, left there about forty malefactors, the refuse of the French jails.* The history of those poor wretches, contains the history of the expedition. The marquis, after cruising for some time on the coast of Nova Scotia, returned to France, without being able to carry them off the miserable island; and is said to have died of grief for having lost all his interest at that court. As for his wretched colony, they must all have perished, had not a French ship been wrecked upon the island, and a few sheep driven upon it at the same time. With the boards of the wreck, they erected huts; with the sheep, they supported nature: and when they had eat them up, they lived on fish. Their clothes wearing out, they made coats of seal's skins; and in this miserable condition, they spent seven years, till Henry IV ordered

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V.

1598.

A settle-
ment of
convicts
on the isle
of Sables,
by the
French.

* See a like colony of convicts authorised by the commission to Quartier, before mentioned, and referred to in a note in p. 40.

SECT. V. Chetodel to go and bring them back to France.

1598. Chetodel found only twelve of them alive; and when he returned, Henry had the curiosity to see them in their seal-skin dresses. Their appearance moved this generous and humane monarch so much, that he ordered them a general pardon for their offences, and gave each of them fifty crowns to begin the world with anew.*

Though la Roche's patent had been very ample and exclusive, yet private adventurers still continued to trade to the river St. Lawrence, without any notice being taken of them by the government. Amongst others was one Pontgravé, a merchant of St. Malo, who had made several trading voyages for furs, to Tadoussac.† Upon the death of the Marquis de la Roche, his patent was renewed in favour of Mons. de Chauvin, a commander in the French navy, who put himself under the direction of Pontgravé; as the latter might justly be supposed, from his frequent trading voyages to that country, to have acquired a considerable knowledge of it. In the year 1600, Chauvin, attended by Pont-

1600.
Chauvin's
voyages
to the St.
Lawrence.

gravé, made a voyage to Tadoussac, where he left some of his people, and returned with a very profitable quantity of furs to France. These people, whom he left, would have perished by hunger or disease, during the following winter, but for the compassion of the natives. Chauvin, in the next

* Mod. Univ. Hist. Vol. 39, p. 408.

† Tadoussac is a town, or place, at the mouth of the Saguenay, a small river emptying into the St. Lawrence from the north, considerably below Quebec, and ninety leagues from the mouth of the St. Lawrence.

year, (1601,) made a second voyage with the same good fortune as the first, and sailed up the St. Lawrence as high as Trois Rivières; but while preparing for a third voyage, (in the year after,) he died.

SECT.
V.
1601.

The many specimens of profit to be made by the Canadian trade, led the public to think favourably of it. M. de Chatte, the governour of Dieppe, succeeded Chauvin as governour of Canada. De Chatte's scheme seems to have been, to have carried on that trade with France, by a company of Rouen merchants and adventurers. An armament for this purpose, was accordingly equipped, and the command of it given to Pontgravé, with powers to extend his discoveries up the river St. Lawrence. Pontgravé, with his squadron, sailed in 1603, having in his company Samuel Champlain, afterwards the famous founder of Quebec, who had been a captain in the navy, and was a man of talents and enterprise. Arriving at Tadoussac, they left their ships there, and in a long-boat they proceeded up the river as far as the falls of St. Louis, and then returned to France.

1603.
Pont-
gravé's
voyage up
the St.
Lawrence.

While Pontgravé was engaged in this voyage of 1603, De Chatte died, and was succeeded in his patent by Pierre du Gast, Sieur de Monts, styled in the king's commission to him, "gentilhomme ordinaire de notre chambre." The tenor of his letters patent, (as we have it at large in Hazard's Collections, Vol. 1, p. 45,) bearing date November 8th, 1603, appears to have been as well for colonising the country then called Acadie, (which comprehended Canada, as well as what is now called Nova Scotia,) as for encouraging the fur-trade carried on

The Sieur
de Mont's
commis-
sion, and
voyages
under it.

SECT.

V.

1694.

there. A difference of opinion is said to have taken place, on the occasion of granting these letters patent, between king Henry and his very able minister, the duke of Sully. The duke declared roundly, that all settlements in America above the fortieth degree of north latitude, could be of no utility; and that all pretended advantages insisted upon in their favour, were but so many commercial chimeras. Here again, (observes the historian,*) the monarch was right and the minister wrong, as we know by experience. By these letters patent, the *Sieur de Monts* was constituted and appointed the king's lieutenant-general, to represent his person, in the country, territory, coasts, and confines of *Acadié*, from the fortieth degree of north latitude to the forty-sixth. The extent of this portion of the continent was, from that part of the coast of *New Jersey*, in the latitude of *Philadelphia*, to the northern extremity of *Cape Breton*. Had the *Sieur de Monts* fixed his settlement or colony, at this time, on that part of the continent as low as, or near to the fortieth degree, which he might have done, the country being then unsettled by any Europeans, and entirely open to him, very different indeed might have been the present situation of affairs in North America. But it is probable, that as all northern furs are said to be much better than those of a southern climate, the French found greater profits from that trade in *Canada*, than the English did from the southern part of the continent, which they were at this time exploring. The *Sieur de Monts*, was therefore, soon

enabled to form a company under his patent, more considerable than any that had yet undertaken that trade. For their further encouragement, it seems, the king, soon after the former patent to the Sieur de Monts, granted also to him and his associates, an exclusive right to the commerce of peltry in Acadie, and the Gulf of St. Lawrence. Thus encouraged, they fitted out four ships. De Monts, in person, took the command of two of them, and was attended by Champlain, and a gentleman, called Pontrincourt, with a number of volunteer adventurers.* Another of the ships was destined to carry on the fur trade at Tadoussac; and the fourth was

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1604.

* Some were Protestants and some Catholics. De Monts himself was a Calvinist; but the king allowed him and his people the exercise of their religion in America. A passage is cited in Holmes's Annals, Vol. 1, p. 147, from Charlevoix, wherein it is said, that De Monts engaged on his part, to establish the *Catholic* religion among the natives. But the original letters patent, as in Hazard's Collections, above-cited, do not warrant this assertion; and it is not probable, from the well known character of Henry, that any such stipulation was made by verbal agreement. It is true, that in the preamble of the letters patent, Henry sets forth his resolution, (as was usual in the first planting of America, both North and South,) to cause the native inhabitants of that country to be converted, "au Christianisme et en la créance et profession de *notre* foi et religion." But this seems to be explained further along in the letters, where he authorises De Monts, "les (peuples) appeler, faire instruire, provoquer et emouvoir à la connoissance de Dieu et à la lumière de la foi et religion chretienne." It is not impossible, but that Charlevoix, being of the order of Jesuits, might very dextrously suppose, that the *Christian* religion could mean nothing else than the *Catholic* religion, and so set it down.

SECT. given to Pontgravé, who was ordered, after touch-
V. ing at Canso, (the eastern extremity of Nova Sco-
1604. tia) to scour the sea between Cape Breton and St.
John's islands, and to clear it of all interlopers.

De Monts, with his two ships, sailed from Havre de Grace on the 7th of March, 1604, and, after a passage of only one month, arrived at Cap de la Hève, in Nova Scotia. In a harbour very near this cape, to the southwest, he met with an interloping vessel, commanded by one Rossignol, a Frenchman, who was trading there with the Indians without license; for which reason he seized his ship and cargo, and called the harbour Port Rossignol. Coasting thence further to the southwest, he arrived at another haven, which his people named Port Mutton, on account of a sheep which either leaped or tumbled overboard here, and was drowned. From this port they coasted the peninsula to the southwest; doubled Cape Sable, and came to anchor in the bay of St. Mary. They afterwards proceeded to examine an extensive bay on the northwest of the peninsula, to which they gave the name of La Baye Francois, but which is now called the Bay of Fundy. On the southeastern side of this bay they discovered a narrow strait, into which they entered, and soon found themselves in a spacious bason, environed with hills, and bordered with fertile meadows. Pontrincourt was so delighted with this place, that he determined to make it his residence, and proposed to send for his family, and settle there. Upon which De Monts, in virtue of his commission, made him a grant of it; and Pontrincourt gave it the name

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V.

1604.

of Port Royal, which grant was afterwards, in the year 1607, confirmed to him by Henry IV. It has since been known by the name of Annapolis Royal. From Port Royal or Annapolis, De Monts sailed still further up the Bay of Fundy, in search of a copper mine, then said to lie at the head of that bay. While De Monts was thus engaged in his coasting voyage, Champlain, who had been despatched in a long-boat, immediately after their arrival at Cap de la Hève, to search for a proper place for a settlement, in examining the Bay of Fundy, pursuant to the instructions of De Monts, came to a large river on the northwest side of the bay, which he called St. John's, originally called by the natives Ouy-gondy. From this river, Champlain coasted the bay south-westwardly twenty leagues, until he came to another river, in exploring which he met with a small island, in the middle of that river, and about half a league in circumference, to which he gave the name of *L'Isle de St. Croix*. This island he deemed to be a proper situation on which they might begin a settlement. He was soon followed thither by De Monts, who resolved to build a fort, and pass the winter there. This they did, but from their account they must have endured great hardships. The insular situation of the settlement precluded them from many advantages. When the winter came on, which was said to have been severe, they found themselves without fresh water, without wood for firing, and without fresh provisions. These inconveniences soon filled the little colony with diseases, particularly the scurvy. By the ensuing spring thirty-six

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1695.

of the colonists had died, and forty of them only were left alive. These considerations determined De Monts to remove his colony across the bay to Port Royal. The buildings at St. Croix were left standing,* but all the stores, &c. were removed. New houses were erected at the mouth of the river L'Equille, which empties itself into the basin of Port Royal, and here the people and stores were lodged. These incidents, however induced De Monts to look out for a more comfortable situation in a warmer climate. With that view he sailed southwardly along the coast to Penobscot, Kennebec, Caseo, Saco, and ultimately to Malebarre,

* The river in which L'isle de St. Croix lies, is called the Scoodich, which was the original name given it by the natives, but it is also called the St. Croix; and being part of the boundary between the territory of the United States and the British province of New Brunswick, it has become a stream of considerable importance. After the treaty of 1783, by which the river St. Croix was made a boundary, it became a question which was the real St. Croix; whether the river known by the name of Scoodich, or that known by the name of Magaguadavick. It has, however, been satisfactorily determined, by commissioners appointed for that purpose, that the Scoodich is the river, originally named St. Croix, and the line has been settled accordingly. Professor Webber, who accompanied the commissioners in 1798, informed Mr. Holmes, that they found an island in this river, corresponding to the French descriptions of the island St. Croix, and near the upper end of it, the remains of a very ancient fortification, overgrown with large trees, that the foundation stones were traced to a considerable extent; and that bricks (a specimen of which he showed Mr. Holmes,) were found there. There is no doubt that these were the reliques of De Monts's fortification. Holmes's Annals, Vol. 1, p. 149.

which was at that time the French name of Cape Cod. He explored divers of these rivers, bays, and harbours: particularly the Kennebec, up which he went a considerable distance. But the natives appearing numerous and unfriendly, and his company being small, he returned to St. Croix, and then to Port Royal, where he found Pontgravé, in a ship from France, with supplies, and a reinforcement of forty men. Having put his affairs into good order, he embarked for France in September, 1605, leaving Pontgravé as his lieutenant, with Champlain and Champelore to perfect the settlement and explore the country.

SECT.
V.
1605.

M. de Monts, on his arrival in France, found, that endeavours had been made to prepossess the French court against his views. The masters of the fishing vessels, who frequented the coast of Acadie and the Gulf of St. Lawrence, which fishery is said to have been the best trade the French then had, represented to the ministry, that De Monts, on pretence of preventing the fur trade with the natives, to which by his patent he had an exclusive right, kept them from the necessaries fit for fishing, and that they were upon the point of abandoning the fisheries. They succeeded so far that De Monts's patent was revoked. This did not, however, entirely discourage him. He entered into new engagements with Pontrincourt, who was then likewise in France.

His patent
revoked.

Pontrincourt sailed again for America, in the year 1606, in an armed vessel from Rochelle. The colony which had been left at Port Royal under the care of Pontgravé, was, by the time of the arri-

1606.
Pontrin-
court's en-
deavours
to fix a set-
tlement at
Port Roy.

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al, Nova
Scotia.

val of Pontgravé off Cape Canso, reduced to such difficulties, that Pontrincourt was obliged to reembark all the inhabitants but two, whom he left to take care of the effects he could not carry off. However, before he got out of the Bay of Fundy he heard of Pontrincourt's arrival at Canso, upon which he returned to Port Royal, where, about the same time, Pontrincourt arrived. The relief which Pontrincourt brought to this infant colony, came so seasonably, that it again held up its head; but its prosperity is said to have been in a great measure owing to the spirit and abilities of Le Carbot, a French lawyer, who, partly from friendship to Pontrincourt, and partly through curiosity, had accompanied him in this voyage. It would seem also, that about this time Pontgravé, said to be the ablest man by far of any concerned in these projected settlements, resigned his command.

1607.

The Sieur
De Monts
obtains a
restora-
tion of his
grant,

In the next year, 1607, Pontrincourt returned to France, and the king, induced probably by his favourable representations of the country, either confirmed or regranting to the Sieur De Monts his former exclusive privilege for the fur trade with the natives, for the purpose, as it is said, of enabling him to establish his colonies in New France. De Monts accordingly sent over, in the year 1608, three ships with families, to commence a permanent settlement. Champlain, who took the charge of conducting this colony, after examining all the most eligible places for settlement in Acadie, and the river St. Lawrence, selected a spot at the confluence of this river and the St. Charles, another small river emptying into the former, about three

hundred and twenty miles up the river St. Lawrence, from the sea. Here, on the third of July, 1608, he began to erect barracks for lodgings for his people, and to clear the ground, which he sowed with wheat and rye, and on this spot laid the foundation of Quebec, the present capital of Canada.* The succeeding events relative to Acadie and Canada, appertain to the histories of those countries. It is now our business to return to the at last successful attempts of the English at colonisation.

SECT.
V.

1603.

And establishes the first permanent colony in Canada, under Champlain.

* Mod. Univ. Hist. Vol. 39, p. 408, 412. Holmes's Annals, Vol. 1, p. 148, 163.

SECTION VI.

A new association formed in England, to colonise America—The letters patent commonly called the first charter of Virginia—Proceedings of the Plymouth Company under this charter—The king's instructions relative to both the colonies or companies to be formed under this charter—Proceedings of the first or South Virginia Company—The first colony sent out to South Virginia under Newport, and a permanent settlement formed at James' town.

ALTHOUGH one hundred and eighty years had now elapsed, since the discovery of the northern part of the continent of America, by Cabot, yet the English had as yet made no effectual settlement in any part of this new world. From the coast of Labrador to the Cape of Florida, not a single European family was to be found, except the small settlement of Spaniards at St. Augustine, and a few French at Port Royal, in Acadie. The period, however, of English colonisation was at length arrived. Through the unremitting endeavours of the rev. Mr. Richard Hackluyt, before mentioned,* or, as some will have it, through the zeal and exertions of captain Bartholomew Gosnold,† who had made the successful voyage of experiment in the year 1602, before spoken of, an association was formed in England in the year 1606, consisting both of men of rank and men of business, who had resolved to repeat the at-

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1606.

A new association formed in England, to colonise America.

* Robertson's Hist. of America, Vol. 4, p. 176, 177.

† Oldmixon's British Empire in America, Vol. 1, p. 220.
Burk's Hist. of Virginia, Vol. 1, p. 75.

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1606.

tempt to colonise some part of North America. The former grant made to Sir Walter Raleigh being now void by his conviction and attainder for high treason, for which he now lay imprisoned in the tower, it was supposed that a clearer way was thereby opened to any subsequent royal grant for the same purpose. This association of respectable merchants and gentlemen, therefore, now petitioned the king for the sanction of his authority, to warrant the execution of their plans. It was not a subject with which James was altogether unacquainted : he had before this, turned his attention to consider the advantages which might be derived from colonies, at a time when he patronised his scheme for planting them in some of the ruder provinces of his ancient kingdom of Scotland, with a view of introducing there, industry and civilization.* He was now no less fond of directing the active genius of his English subjects, towards occupations not repugnant to his own pacific maxims, and listened with a favourable ear to their application.

The letters patent commonly called the first charter of Virginia.

He accordingly, by letters patent bearing date the tenth day of April, in the fourth year of his reign, (A. D. 1606,) at the desire and request of the applicants, divided that portion of North America which stretches from the thirty-fourth to the forty-fifth degree of north latitude, into two districts nearly equal, and the members of the association "into two several colonies and companies ; the one consisting of certain knights, gentlemen, merchants,

* Robertson's Hist. of America, Vol. 4, p. 178. Also see note (C) at the end of this volume.

and other adventurers of our city of *London*, and elsewhere, which are, and from time to time shall be, joined unto them, which do desire to begin their plantation and habitation in some fit and convenient place, between four-and-thirty and one-and-forty degrees of the said latitude, amongst the coasts of Virginia, and the coasts of America aforesaid: and the other consisting of sundry knights, gentlemen, merchants, and other adventurers of our cities of *Bristol* and *Exeter*, and of our town of *Plimouth*, and of other places which do join themselves unto that colony, which do desire to begin their plantation and habitation, in some fit and convenient place between eight-and-thirty degrees and five-and-forty degrees of the said latitude, all amongst the said coasts of Virginia and America, as that coast lyeth.”*

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* Robertson, in his History of Virginia, (see his Hist. of America, Vol. 4, p. 178,) seems to make the above division of the continent of America, an act of the king himself, assigning the reason of that division to have been, that “a grant of the whole of such a vast region to any one body of men, however respectable, appeared to the king an act of impolitic and profuse liberality. In his History of New England (same Vol. p. 255,) he seems to assign a different reason: “this arrangement (meaning the division above-mentioned) seems to have been formed upon the idea of some speculative refiner, who aimed at diffusing the spirit of industry by fixing the seat of one branch of the trade that was now to be opened, on the east coast of the island, (Great Britain,) and the other on the west.” But whoever will attentively read the letters patent, will see that this division was made at the *special instance* and *request* of the association. It is probable, indeed, that the vast extent of the country to be colonised might have suggested to the associators a reason for requesting it to be divided into two

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1606.

And granted, "that Sir Thomas Gates, Sir George Somers, Richard Hackluyt, and Edward Maria Wingfield; adventurers of and for our city of London, and all such others, as are, or shall be joined unto them of that colony, shall be called the first colony; and they shall, and may begin their said first plantation and habitation, at any place upon the said coast of Virginia or America, where they shall think fit and convenient, between the said four-and-thirty and one-and-forty degrees of the said latitude; and that they shall have all the lands, &c. from the said first seat of their plantation and habitation by the space of fifty miles of English statutes measure, all along the said coast of Virginia and America, towards the west and southwest, as the coast lyeth, with all the islands within one hundred miles directly over against the same sea-coast; and also all the lands, &c. from the said place of their first plantation, &c. for the space of fifty like English miles, all amongst the said coasts, &c. towards the east and northeast, or towards the north, as the coast lyeth, together with all the islands, &c. and also all the lands, &c. from the same fifty miles every way on the sea-coast, directly into the main land, by the space of one hundred like English miles."

And likewise granted, "that Thomas Hanham

colonies. See Hubbard M. S. N. Eng. 29, cited in Holmes's Annals, Vol. 1, p. 152, note 1. To which may be added also, the probability, that as many of the associators resided in Devonshire, at Exeter, and Plymouth, the convenience of a separate arrangement into two trading companies, might have been a further reason for the division. See Oldmixon's British Empire in America, Vol. 1, p. 26.

and Raleigh Gilbert,* William Parker and George Popham, and all others of the town of *Plimouth*, in the county of *Devon*, or elsewhere, which are, or shall be joined unto them of that colony, shall be called the *second colony*; and that they shall and may begin their plantation, &c. at any place between eight-and-thirty and five-and-forty degrees of the same latitude, &c.” (with the like limitations as before to the *first colony*.)

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“Provided always, that the plantation and habitation of such of the said colonies, as shall last plant themselves, as aforesaid, shall not be made within one hundred like English miles of the other of them, that first began to make their plantation, as aforesaid.”

“And we do also ordain, establish, and agree, that each of the said colonies shall have a council, which shall govern and order all matters and causes which shall arise within the same several colonies, according to such laws, ordinances, and instructions, as shall be, in that behalf, given and signed with our hand or sign manual, and pass under the privy seal of our realm of England: each of which councils shall consist of thirteen persons, to be ordained, made, and removed, from time to time, according as shall be directed and comprised in the same instructions.”

“And that also there shall be a council established here in England, which shall, in like manner, consist of thirteen persons, to be, for that purpose,

* Son of the famous navigator before-mentioned, Sir Humphrey Gilbert. Mod. Univ. Hist. Vol. 39, p. 270.

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appointed by us, our heirs, and successors, which shall be called our *council of Virginia*; which shall, from time to time, have the superior direction of all matters concerning the government of the said colonies.”*

He moreover granted license to the several councils of the said colonies, to cause search to be made for mines of gold, silver, and copper, yielding to him the fifth part of the gold and silver,† and the fifteenth of the copper, that should be got therefrom; and to cause money to be coined.

He likewise authorised each of the aforesaid companies, to take to the said plantations and colonies, as many of his subjects as would willingly accompany them. Provided that none of the said persons should be such, as should thereafter be specially restrained by him, his heirs, or successors.

He moreover granted license to the said colonies, for their several defences, to encounter, expulse, re-

* The reader cannot but observe here, a considerable similitude, if there was not an intended imitation, of the Spanish mode of governing their colonies, adopted shortly after their conquests of Mexico and Peru, early in the sixteenth century, about the year 1511. Their colonies in America were divided into two viceroy-ships, north and south, of which Mexico and Peru were the principal provinces. Over these, the *royal council of the Indies*, (permanently held in the mother country, in the place where the monarch resides, and in which council he is supposed to be always present), has the supreme government of all the Spanish dominions in America. See Robertson's Hist. of America, (book 8,) Vol. 4, p. 19.

† This was the proportion reserved by the king of Spain, from the Spanish mines of gold and silver in America. Harris's Voyages, Vol. 2, p. 164. Robertson's Hist. of America, Vol. 4, p. 366, note 34.

pel, and resist all such persons, as, without their special license, should attempt either to inhabit within their several precincts, or annoy them.

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He authorised also, each of the said colonies, to take all persons, with their vessels and goods, who should be found trafficking in any harbour, creek, or place within their respective limits, not being of the same colony, until they should agree to pay into the hands of the treasurer of that colony, within whose precincts they should so traffick; if the king's subjects, two and a half per cent. upon the wares and merchandises so trafficked; if strangers, five per cent.: which sums of money, for one-and-twenty years next ensuing the date of the letters patent, should be appropriated to the use of the plantation, where such traffick should be made; at the end of which period, to be to the use of the king.*

Also, that the said colonies might import out of any of the king's dominions into their respective plantations, all goods whatever, without paying any duty thereon, for the space of seven years next ensuing the date of the said letters patent.

He also declared, that all persons who should dwell and inhabit within either of the said colonies, and their children born therein, should have and en-

* Robertson (in his Hist. of America, book 9, Vol. 1, p. 181,) has construed this clause as giving to these colonies, "the unlimited permission of trade with foreigners," and mentions it as one of the articles in it "unfavourable to the interest of the parent state, as it deprived the parent state of that exclusive commerce, which has been deemed the chief advantage resulting from the establishment of colonies." It demonstrates, however, that James was, at this time, sincere in his encouragement of these colonies,

SECT. joy all liberties, franchises, and immunities, as if
VI. they had been abiding, or born within the realm of
1606. England.

And finally, that all lands in each of the said colonies should be held of the king, his heirs and successors, as of his manor of East-Greenwich, in the county of Kent, in free and common soccage only, and not in capite.*

The most remarkable clauses in these letters patent, are those which prescribe the mode of government for these colonies, to wit: that the councils in each colony should govern according to such laws, ordinances, and instructions, as should be given and signed by the king; and that he should have the power of appointment and removal of all such persons as should compose the two councils in the colonies, as well as those at home forming the *council of Virginia*. It must be acknowledged, that these clauses do not explicitly invest the king with the power of making the laws, ordinances, and instructions, since the latter of them particularly provides that the *council of Virginia* should have the superior management and direction of all matters that shall, or may concern the government of the said colonies; which seems to imply, that the *council of Virginia* at home, should have the power of making such laws, ordinances, and instructions, to be approved of and signed by the king. This construction seems to be warranted by what is called the *second charter of Virginia*, (in 1609,) wherein it is expressly so

* See the letters patent at large in Hazard's Collections, Vol. 1, p. 50.

provided. But the power of appointment and removal, as before-mentioned, certainly vested a great preponderating influence with the king; and he might, without doubt, propound to the council at home, what laws, ordinances, and instructions he pleased, or might reject any proposed by them. These clauses, indeed, are not to be reconciled to the present ideas of political liberty entertained in either America or England. The principles of an elective and representative government, were developed by the English revolutionists, in 1690, with such wisdom and moderation, and have been cherished by their descendants in America with so much ardour, that there are few readers among us at this day, who would approve of a mode of government so repugnant to those principles. But it ought to be remembered, as the best historian of England has clearly demonstrated,* that the two first English princes of the house of Stuart, were not tyrants in their natural disposition. There is strong presumption, that James the first sincerely believed, that his prerogative was, by the English constitution, paramount to the laws; or, at least, that where parliament had made no provision, his proclamations, in virtue of his sovereign authority, were the substitutes of laws. And although his son Charles, instigated by the unprincipled Buckingham, manifested at the first of his reign, a strong inclination to render himself despotic, yet much allowance is to be made for him, on account of his education under his father, from whom he would naturally imbibe all that monarch's metaphysic no-

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* Hume.

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tions of the *jure divino* power of kings.* It is certain that the arbitrary conduct of their immediate predecessors of the Tudor line, particularly queen Elizabeth and Henry VIII, seemed too strongly to authorise them in these sentiments. Although James's English subjects began in his reign to hold the privileges of parliament and the power of the house of commons in higher estimation than formerly, yet the temper of the age was not then such as to view with much scrutiny or jealousy such small aberrations from the fundamental principles of a representative government as were to be found in an abstract clause of a Charles, as yet unexecuted. It was therefore without hesitation or reluctance, that the patentees of these colonies prepared, under the authority of this charter, to execute their respective plans.

Proceed-
ings of the
Plymouth
Company
under this
charter.

Although only four gentlemen are specially named in the foregoing letters, as patentees for the second colony, yet the general expression, "and all others of the town of Plymouth, in the county of Devon, or elsewhere, who shall be joined unto them of that colony,"—necessarily implied the association of other persons with them for the purpose of managing the affairs of the second colony, which association now assumed the indiscriminate appellations of the Plymouth Company, and the North Virginia colony. Accordingly, we find mention made of the interference of so high and respectable a charac-

* Voltaire's character of Charles seems to be just: "He was a good husband, a good master, a good father, and an honest man: but he was an ill-advised king." *Age of Louis XIV*, Vol. I, p. 19.

ter as Sir John Popham, lord chief justice of England, as one of the members of the Plymouth Company, and a great promoter of the design. Mr. George Popham, one of the patentees, was his brother.* Sir Ferdinando Gorges, then governor of Plymouth, and several other west-countrymen and merchants are mentioned also as being concerned in this company.† They seem to have been more expeditious than the members of the London Company, in their first attempts to carry into effect the intentions of the Charter. In August, 1606, they dispatched a ship of fifty tons, under the command of Henry Challons, to make further discovery of the coasts of North Virginia; and, if it should appear expedient, to leave as many men, as he could spare, in the country. On his passage, however, from the West India islands towards the American coast, he and his crew, consisting of about thirty persons, were taken by a Spanish fleet, and carried into Spain, where his vessel was confiscated. Although this misfortune considerably abated the ardour of the Plymouth company; yet the lord chief justice Pop-

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* Hutchinson's Hist. of Massachusetts, Vol. 1, p. 10.

† Oldmixon's British Emp. in America, Vol. 1, p. 26.—It may be proper to observe here, that, although the two colonies were to be under the direction and government of the king and his council of Virginia, yet the associators who applied to the king for his letters patent became thereby divided also into two mercantile or trading companies, one at London, the other at Plymouth, the former as proprietors of the first or South Virginia colony, and the latter as proprietors of the second or North Virginia colony, but each colony subject to the "laws, ordinances, and instructions" of the king and his council of Virginia.

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ham having, immediately after the departure of Challons, sent out, at his own expense, another ship, under the command of Thomas Hanam, one of the patentees, whose business was not so much to settle a colony as to make discovery in order thereto, the account given of the country on the return of this ship was so favourable as to cherish in a considerable degree the spirit of enterprise necessary for further undertakings.*

The
King's
instruc-
tion rela-
tive to
both colo-
nies.

Mean-while, in order to effectuate the purpose of the letters patent, a set of *instructions*, under the king's privy seal, relative to both colonies or companies, in pursuance of the before-mentioned important clause in these letters, were made out on the twentieth of November, in the same year. Whether these instructions were drawn up by the king himself, history does not expressly say.† As James

* Mod. Univ. Hist. Vol. 39, p. 270, and Holmes's Annals, Vol. 1, p. 154, where it is said, that Sir Ferdinando Gorges observed, on this occasion, that Martin Pring (or Prinn) who went with Hanam in this voyage, (and who had commanded the voyage of discovery in the year 1603, as before mentioned,) brought, on his return from this last-mentioned voyage, the most exact account of the Virginia coast, that ever came to his hand. What part of the American coast they visited does not appear in modern authors who mention this voyage. The particulars of it, however, are probably to be found in Purchas's Pilgrimages.

† Marshall (in his Life of Washington, Vol. 1, p. 25,) calls them a *Code of Laws*, framed by the king, for the government of the colonies. This would impress the reader with an idea, that James in his vanity, had compiled a volume of laws for the occasion. But a recurrence to the instrument will show that the title of "Orders and Instructions for the colo-

was not a little vain of his talents as a writer, and not much less so as a legislator, there is great probability that they were the dictates of his own mind. If the arbitrary power which he supposed to be annexed to the prerogative of his crown, be allowed him, there is nothing in them but what was consonant to his usual exercise of that prerogative, and apparently necessary to carry into effect the provisions of the charter.

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The patentees or proprietors of the *first* or *South Virginia colony*, proceeded with more effect, though not with so much expedition, as those of the *second* colony. On the receipt of their letters patent, preparations for the purpose had been undertaken by three small vessels, one of a hundred tons, another of forty, and a pinnace of twenty, with everything requisite for settling a colony, consisting of one hundred and five persons, were provided by the latter end of the year, and the naval command thereof, together with the care of transporting the colony, was entrusted to capt. Christopher Newport, said to be "a mariner of celebrity and experience on the American coast."

Proceed-
ings of the
first or
South
Virginia
company.

Besides the set of "orders and instructions," under the king's privy seal before-mentioned, two other several sets of instructions were given by the South Virginia Company, on this occasion. One to capt. Christopher Newport, concerning the naval command and transportation of the colony: the

nies," which other writers give it, is more correct. Holmes's Annals, Vol. 1, p. 153.—See them nearly at large, in Burk's Hist. of Virginia, Vol. 1, p. 85.

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other, to him, (Newport,) in conjunction with capt. Bartholomew Gosnold and capt. John Ratcliffe, respecting the form and administration of the government. These last, being the most important, were close sealed, and accompanied with orders that they were not to be opened for twenty-four hours after their arrival on the coast of Virginia. To these were added also by his majesty, by way of advice, instructions of a general nature; containing, however, one or two strange particulars, concerning a communication by some river or lake between Virginia and the Indian or South Sea.*

The first colony sent out to settle Virginia under Newport, and a permanent settlement formed at James' town.

1607.

This little squadron sailed from Blackwall, on the Thames, on the twentieth of December, 1606; but by some unlucky accidents, were for several weeks detained on the coast of England. At last, they continued their voyage, and having taken in fresh water and other necessaries at the Canaries, proceeded to the Caribbee islands, where they arrived on the twenty-third of February, 1607, and staid amongst them, but chiefly in the island of Nevis, about five weeks. These delays seem to have afforded nourishment to some violent dissensions, which arose, during the voyage among the adventurers. Jealousy of power, and envy of preferment, seem to have been at the bottom of them. Symptoms of these dissensions made their appearance before the squadron had cleared the English coast, but they were in some measure allayed, it seems, by the prudent conduct and pious exhortations of their chaplain, the rev. Mr. Hunt. They, however,

eventuated in the arrest of capt. John Smith, on the absurd charge of an intention to murder the council, usurp the government, and make himself king of Virginia; and he was accordingly kept in close confinement during the remainder of the voyage. Smith was, perhaps, the most extraordinary personage, of whom the early histories of North America have made mention. The accounts of his adventures in the east of Europe, seem rather to have been borrowed from some romance of the thirteenth century than taken from any real scenes of life. After these adventures, he had returned to England, his native country, and had accidentally formed an acquaintance with captain Gosnold, in the height of the zeal of the latter for colonising America. Gosnold rightly conceiving that Smith's active genius was peculiarly fitted for such an undertaking, communicated his schemes to him. They were ardently embraced by him, and he embarked with the other colonists for America.

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Thus disturbed by internal dissensions, the little fleet left the West Indies, on the third of April, 1607, but not falling in with the land for three days after their reckoning was out, serious propositions were made for returning to England. The place of their destination was the old disastrous situation at Roanoke; but fortunately they were overtaken by a storm, which drove them to the mouth of the Chesapeake, which they entered on the twenty-sixth of April. The promontory on the south side of the entrance into the bay, they called Cape Henry, in honour of the then prince of Wales, who died not

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1607.

long afterwards, and that on the north side Cape Charles, in honour of the then duke of York, who was afterwards king Charles I, of England. Impatient to land, a party of about thirty men went on shore at Cape Henry, to recreate and refresh themselves, but they were suddenly and boldly attacked by only five savages, who wounded two of them very dangerously. A large and beautiful river which empties itself into the bay, on the west of Cape Henry, naturally first invited their attention. It was in that season of the year when the country is clothed in its richest verdure, and seemed to present itself to them dressed in its most attractive charms. In search of some fit place for a settlement, they proceeded up this river, to which they gave the name of James, in honour of his majesty; though called by the natives *Powhatan*, probably in honour of their grand chief or sovereign, who occasionally dwelt on its banks. Near the mouth of this river they met with five of the natives, who invited them to their town, Kecoughtan, or Kichotan, where Hampton now stands. Here those who went on shore were feasted with cakes made of Indian corn, and "regaled with tobacco and a dance."* In return, they presented to the natives beads and other trinkets. As they proceeded further up the river, another company of Indians appeared in arms. Their chief Apamatica, holding in one hand his bow and arrows, and in the other a pipe of tobacco, demanded the cause of their coming. They made signs of peace, and were received in a friend-

* Smith's Hist. of Virginia.

ly manner. On further exploring the river they came to a peninsula, situated on the north side of it, where they were also hospitably received by the natives, whose chief Paspaha, being informed of their intentions, offered them as much land as they wanted, and sent them a deer for their entertainment. As this peninsula was so situated as not only to afford them convenient anchorage, but some security against any invasion of the natives, it was fixed upon as the most eligible spot for their first colonisation. Accordingly they here debarked on the 13th of May, and called the place James' town, which name it has ever since retained. The sealed instructions before-mentioned being now opened, it was found, that Bartholomew Gosnold, John Smith, Edward Maria Wingfield, Christopher Newport, John Martin, John Ratcliffe, and George Kendall, were appointed counsellors, who being duly sworn, proceeded, according to the king's instruction under the privy seal before-mentioned, to elect their president, of which their choice fell upon Edward Maria Wingfield. They excluded Smith from the council, and a declaration was entered on their minutes, setting down at large their reasons for so doing. He was released from his confinement, but it was with some difficulty that he could obtain a trial in the colony, his accusers proposing that he should be sent to England for that purpose. After a fair hearing, however, he was honourably acquitted of the charges against him, and took his seat in the council.

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As a minute detail of the proceedings of these

SECT. VI. colonists, and the events which attended them, more properly appertains to a history of Virginia, of which there are several, we shall for the future confine ourselves only to those incidents thereof which have some immediate relation to that of Maryland.

SECTION VII.

The distresses of the first Virginia colony, and the services of captain Smith—His first attempt to explore the bay of Chesapeake—His second attempt more successful—A general sketch of the tribes of Indians then inhabiting Virginia and Maryland—Smith becomes president of Virginia, and the tenor of some instructions from England to Virginia—An attempt of the Plymouth company to settle a colony in Maine—The second charter of Virginia, and the causes of granting it—The settlement of the Dutch at New York—English attempt to settle Newfoundland—The third charter of Virginia—Captain Argall's expedition to break up the French and Dutch settlements at Nova Scotia and New York.

DURING the remaining part of the year 1607, after the arrival and settlement of this first Virginia colony at James' town, it appears to have struggled with much difficulty for existence. The provisions which were left for their sustenance by Newport, who sailed with his ships for England, some time in June this year, were not only scanty, but bad in their quality, having received damage in the holds of their ships during the voyage. Hence the colonists became subject to diseases, arising as well from the unhealthiness of the climate, as from a scarcity bordering on famine. This contributed much to a diminution of their numbers. They were harassed also with repeated attacks by the natives, who were far from being content with the visit of these strangers, when they found out that it would probably be permanent. Added to those difficulties, the conduct of their president Wingfield, and his successor Ratcliffe, was such as to

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The distresses of the first Virginia colony, and the services of captain Smith.

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Disregarding the distresses of the colony, these presidents had not only consumed the stores of provisions, in the indulgence of their own luxury, but had planned schemes for deserting the country and escaping to England. Smith, whose active and vigorous mind had been constantly employed during these distresses, both in protecting the colony from the hostile attacks of the savages, and in procuring from the natives corn and other provisions, was obviously the only member of the council in whom the colonists could, with any confidence, repose the administration of their affairs. Pursuing with ardour, his endeavours to procure supplies, as well as to explore the country, he was unfortunately captured by the Indians; but after undergoing an interesting series of adventures, with them for seven weeks, his life was almost miraculously saved, through the amiable interposition of the princess Pocahontas, a favourite daughter of the emperor Powhatan. Restored to the colony again, his influence became doubly necessary. Wearied with their hardships and distresses, a great portion of the colony had determined to abandon the country. He arrived just in time to prevent the execution of their design. By persuasion, he obtained a majority for continuing; and by force, he compelled the minority to submit. He now experienced also, some benefit from his captivity; for it acquired him considerable repute among the Indians, and enabled him to preserve the colony in plenty of provisions until the arrival of two vessels, which had been dispatched from England under the command of cap-

tain Newport, with a supply of provisions, of instruments of husbandry, and with a reinforcement of one hundred and twenty persons.

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This seasonable accession of force and provisions, although it brought joy to the colonists, yet had the inconvenience of inducing them again to a relaxation of discipline, and to a neglect of the advice and direction of Smith, who zealously opposed their idle pursuit of wealth, in loading the ships destined to return in the spring, with an imaginary golden ore, instead of preparing for their future subsistence. Perceiving this, he bent his attention to more important pursuits. Well knowing that this fatal delusion would end in a scarcity of food, which had indeed already begun to be felt, he proposed, as they had not hitherto extended their researches beyond the countries contiguous to James' river, to open an intercourse with the more remote tribes, and to explore the shores of that vast reservoir of waters—the bay of Chesapeake. The execution of this arduous design, he undertook himself, accompanied by doctor Russell, in an open boat of about three tons burthen, and with a crew of thirteen men. On the second of June, he fell down the river in company with the boat of Newport's vessels, under the command of captain Nelson; and parting with her at the capes, began his survey at Cape Charles. He examined, with immense fatigue and danger, every river, inlet, and bay, on both sides of the Chesapeake, as far as the mouth of the Rappahanock; from whence he returned on the twenty-first of July to James' town;

His first attempt to explore the bay of Chesapeake.

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but more probably, as mentioned by others,† from an accident which happened to him at the mouth of the Rappahanock. Having stuck with his sword, a fish called the Stingray, which lay in the sedge, the animal struck him in the wrist with the thorn which lay in its tail. The pain was for some time so violent, and the appearance of the wound so swoln and livid, that his life was despaired of. From this place they immediately sailed to James' town; and in memory of this event, a small island at the mouth of that river has been called Stingray island.‡

On his return to James' town, he found the colony in the utmost confusion and disorder. Those who had arrived last with Newport, were all sick; a general scarcity prevailed, and an universal discontent with the president, Ratcliffe, whom they charged with riotously consuming the stores, and unnecessarily fatiguing the people with building a house of pleasure for himself in the woods. The seasonable arrival of Smith, prevented their fury from breaking out into acts of personal violence; and they contented themselves with deposing their president. Whether Smith was immediately thereon

* Marshall's Life of Washington, Vol. 1, p. 39.

† Burk's Hist. of Virginia, Vol. 1, p. 121.

‡ Burk's Hist. of Virginia, Vol. 1, p. 121. I find it so related by Burk, who probably took it from Stith; but it is to be observed, that no island is there laid down in bishop Madison's new map of Virginia, but the south cape of Rappahanock is there denominated *Stingray Point*. As the island is mentioned to have been small, it may possibly have been since washed away, or not worthy of notice in a map.

electd president in his stead, or whether that event was postponed until his return from his second expedition up the Chesapeake, does not appear certain from the historians of Virginia. It seems, however, that Mr. Matthew Scrivener, a man of respectability, who had been sent from England with Newport in his last voyage, and nominated one of the council in Virginia, was elected vice-president by the colonists; which seems to imply that Smith was considered by them, as their president, but that Scrivener should be intrusted with the administration of the affairs of the colony, during his absence.

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Smith accordingly prepared for pursuing his scheme, of thoroughly exploring the Chesapeake; and it is on this expedition, we are to consider him as the first European adventurer, who had ever penetrated into the interior parts of the country now constituting the state of Maryland. After remaining since his return, only three days at James' town, he set out again on the twenty-fourth of July, with twelve men; probably in the same open vessel, which he had used before.

His second attempt more successful.

But before we follow Mr. Smith, in his route up the Chesapeake, it may be well to pay some attention to the accounts which writers upon this subject have given us of the situation of some of the principal nations of Indians, together with a few of the subordinate tribes, who were found to inhabit on the borders of the Chesapeake, when the Europeans first intruded on them. The country which now forms the state of Virginia, including also a part of the state of Maryland, was occupied by upwards of forty different tribes of Indians. These tribes were

A general sketch of the tribes of Indians inhabiting Virginia and Maryland.

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formed again into three great and distinct confederacies or nations, denominated the *Powhatans*, the *Manahoacs*, and *Monacans*. Each of these three nations spoke a different language, and were under separate and distinct governments, insomuch that interpreters were necessary when they transacted business with each other.

The *Powhatans* possessed all that part of the country bordering on the sea-board and the Chesapeake, which extends from North Carolina to the mouth of the Patuxent, in Maryland. On the westward, their territories seem to have been bounded by a supposed line running with the highlands, and crossing the heads of the rivers from North Carolina to the head of the Patuxent.* Some of the *Powhatans* are said also to have occupied what is now called the eastern shore of Virginia, under the denomination of the *Accohanocs* and *Accomacks*, from whence probably Accomack county took its name.

The *Monacans* inhabited that part of Virginia which lies on the highlands, to the westward of a line drawn through the falls of James' river, in extent from York river to North Carolina.†

The *Manahoacs* appear to have possessed that

* See Mr. Charles Thompson's note (5) in the Appendix to Mr. Jefferson's Notes. Also Burk's Hist. of Virginia, Vol. 1, p. 112.

† The *Monacans* afterwards assumed the name of *Tuscaroras*, and for some cause deserted their country in Virginia about the year 1712, and joined the *Iroquois*, commonly called the *Five Nations*, making the *Sixth*. Colden's Hist. of the Five Nations, p. 5. Jefferson's Notes, query 11.

part of Virginia, in the highlands, to the westward of the Powhatans, lying between the York and Patowmack rivers. These two nations, (the Monacans and Manahoacs,) were in amity with each other, but waged joint and perpetual war against the Powhatans. SECT.
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That part of Maryland which lies between the Patuxent and the Patapsco rivers from the bay to the Alleghaney mountains, seems to have been inhabited by a nation called the Shawanees,* still existing in the northwestern parts of the United States.†

The *Susquehanocks* appear to have lived along the river Susquehanah, to the westward thereof, not only in Maryland, but to a considerable extent in Pennsylvania, probably occupying that part of Maryland which forms Harford county; and to the northward and eastward of them was a nation called originally Lenopi, by the French Loups, but since by the English Delawares, whose country is said to have extended from the Hittatinny mountains to Duck-creek, in the state of Delaware, including all the Jerseys and the southeastern part of Pennsylvania. It is not improbable, that it included also a part of Cæcil county in Maryland.‡

* See Charles Thompson's note (5) to Jefferson's Notes.

† They, together with several other Indian nations, subscribed a treaty with the United States, bearing date November 25th, 1808.

‡ See Thompson's note above-cited; where it is mentioned that a tribe of the Loups or Delawares, called *Chihohocki*, occupied the remainder part of the Delaware state, along the west side of the Delaware river, which by them was formerly called Chihohocki.

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The rest of the Eastern Shore of Maryland appears to have been possessed by two nations ; one called the *Tockwocks*, the other the *Nanticokes* ; the former occupying Kent, Queen Ann's, and Talbot counties : that is, from the Sassafras river to the Choptank, the latter Dorchester and Somerset counties.*

* See Evans's Map of the Middle British Colonies, published in 1755. Mr. Charles Thompson, in note (7) in the Appendix to Jefferson's Notes, says, that "the Nanticokes were formerly of a nation that lived at the head of Chesapeake bay, and who of late years, have been adopted into the Mingo or Iroquois confederacy, and make a seventh nation ; the Monacans or Tuscaroras making the sixth," (as before-mentioned.) But, whether the "Nanticokes" here meant by him, were the same nation as the *Nanticokes*, above-mentioned, does not appear quite certain, though probable. The circumstance mentioned by Mr. Thompson, that the "Nanticokes" lately joined the Iroquois, is true also of the Nanticokes of Dorchester and Somerset, in Maryland. In the year 1768, a remnant of the Nanticoke Indians, some of them residing on their lands situated on the north bank of the Nanticoke river, in Dorchester county, and others of them on a creek emptying into the head of the said river, called Broad creek, in Somerset county, petitioned the assembly of Maryland, for leave to sell their said lands, or to receive some compensation for them ; for which purpose an act was passed in that year, the preamble of which states, "whereas the greatest part of the tribe of the Nanticoke Indians, have some years ago, left and deserted the lands in the province, appropriated by former acts of assembly for their use, and the few that remain here, by their petition, prayed that they might have liberty to dispose of their right to the said lands, or that some compensation should be made them for quitting claim thereto, as they are desirous of totally leaving this province, and going to live with their brethren, who have incorporated themselves with the Six Nations, &c." The sale was accordingly effected through

We are now to accompany Mr. Smith in his voyage up the Chesapeake. The first object of his notice, as they naturally presented themselves, was that cluster of islands, now usually denominated the Tangier islands; the largest of which, from their first discoverer, still retains the name of Smith's island. Leaving these islands, it appears, that he then explored the eastern shores of what is now called Poconoke bay, into which the river Pocconoke empties. Departing from thence, he passed a high point of land, which he called Point *Ployer*, but which in all probability was the same point now well known under the denomination of *Watkins's* Point, and referred to in the charter or grant of Ma-

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the agency of a certain Amos Ogden, a deputy acting under Sir William Johnson, at that time his majesty's superintendent of Indian affairs for the northern department; and the remainder of the Nanticokes removed from the province. Some notice may be here taken also, of some Indians, who were settled in Dorchester county, on the south bank of the Choptank river, and who, as far back as the year 1669, have been known under the denomination of the "Choptank Indians," as appears by an act of assembly of that year, appropriating to them certain lands lying on the south bank of the Choptank river, and Secretary Sewall's creek. Whether they were a *tribe* of the Nanticoke *nation*, distinct from those who had emigrated, or a remnant of the *Tockwocks*, who had left their residence on the opposite side of the Choptank, we have no sufficient authority to determine. It is certain, that they did not migrate with the Nanticokes in 1768, although they lived within twenty miles of each other. There are at this day, two or three individuals of them yet remaining, but intermixed, it is said, with Negro blood. They live on some spots of land appropriated to them by an act of assembly of the year 1798, out of their appropriation in the year 1669.

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land to the lord Baltimore, as the most southern part of that province bordering on the Chesapeake. In doubling this point or cape, he fell in with some shoals formed by another cluster of islands, said by some to have been the same, as those since called *Watts's* islands, by others *Holland's* islands. To these shoals, probably from their difficult and perplexed navigation, he gave the name of *Limbo*. From thence he stood over again to the eastern shore, and discovered a river called by the natives *Cuscarawacock*. On this river lived the nations of *Sarapinak*, *Nause*, *Arseck*, and *Nantiquack*, (of which, probably, the word *Nanticoke* is a corruption), said by him to be the best traders of any Indians in those parts. They told the English of a great nation, called *Massawomecks*, in search of whom, Smith returned by *Limbo*, into the bay. Leaving the shallows of the eastern shore, he appears to have stood over to the western shore, but not to have fallen in with it until he came to a river, which he called *Bolus* river; but which is said to be that which is now called the *Patapsco*.* Somewhere in the upper part of the bay, he fell in with seven canoes full of Indians, who turned out to be the *Massawomecks*, who were then making war upon the *Susquehanoeks* and the *Tockwocks*. When they first met, the *Massawomecks* made a show of hostility, but suffering themselves to be persuaded of the friendly disposition of the English, after a mutual exchange of presents they departed.†

* See Note (II) at the end of this volume.

† This nation, called *Massawomecks* (or *Wassawomecks*) are said by Mr. Charles Thompson, in note (5) to Jefferson's

The English are said to have next entered a river, called the Tockwock, on which lived a nation of the same name in a palisaded town, in order to guard themselves against the Massawomecks.* In company with the Tockwocks, they found, it seems, a party of the Susquchanocks, who had probably come there to form a joint collection to oppose the Massawomecks. Implements of European manu-

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Notes, to have been the same nation as that subsequently well known by the English, under the denomination of the *Five Nations*, called by the French *Iroquois*, but by themselves *Mingoes*. When Smith met them, they had descended the Susquehannah, and were coming to attack the Susquchanocks and the Tockwocks in the rear. Mr. Jefferson observes also, (Notes, quere 11,) that these Massawomecks or Iroquois harassed unremittingly both the Manahoacs and Powhatans. Mr. Colden, in his history of them, p. 36, says, that they over-ran a great part of North America, carrying their arms as far south as Carolina, to the northward of New England, and as far west as the Mississippi. But these latter conquests by them were subsequent to the period we are now speaking of, and after they had been furnished with fire-arms. They were, however, exhibiting their martial prowess in a high degree against the Adirondacs or Algonquins, a nation on the north of the St. Lawrence, when the French first settled in Canada, in 1603, and would have extirpated them, if the French had not opposed them. *Colden's Hist.* ch. 1.

* As the Tockwocks are supposed to have occupied that part of Maryland, of which the counties of Kent, Queen Ann's, and Talbot are composed, and the English had, at this period of their expedition, arrived as high up the bay as the Patapsco, it may be conjectured, although it is certainly but an inference from circumstances, that this river, here called the Tockwock, was that now called the *Chester* river, and the palisaded town above-mentioned, was probably situated on *Eastern Neck* island, or somewhere in that part of Kent county.

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An incident, which must be noticed, is said to have occurred, either in this or the following excursion of Smith up the Chesapeake. Invited by the great breadth of the Patowmack, at its mouth, he sailed up this river, but to what distance is not mentioned. Three or four thousand of the natives, it

* Although the city of Quebec was not founded by Champlain until July, 1608, yet the French had, as early as the year 1600, established a trading settlement at Tadoussac, on the St. Lawrence, as has been before mentioned. With regard to what is represented in the accounts of the early adventurers, as coming from Smith, on this occasion, of the gigantic stature of the Susquehanocks, it is unworthy of notice. They were, without doubt, like most other North American Indians, tall and well limbed. What is said by *Stith*, of their language and dress may deserve to be here inserted: "Their language and attire were very suitable to their stature and appearance. For their language sounded deep and solemn, and hollow, like a voice in a vault. Their attire was the skins of bears and wolves, so cut that the man's head went through the neck, and the ears of the bear were fastened on his shoulders, while the nose and teeth hung dangling down upon his breast. Behind was another bear's face split, with a paw hanging at the nose. And their sleeves coming down to their elbows, were the necks of bears, with their arms going through the mouth, and paws hanging to the nose. One of them had the head of a wolf hanging to a chain for a jewel, and his tobacco-pipe was three quarters of a yard long, carved with a bird, a deer, and other devices, at the great end. His arrows were three quarters long, headed with splinters of a white crystal-like stone, in the form of a heart, an inch broad, and an inch and a half long. These he carried at his back, in a wolf's skin, for a quiver, with his bow in one hand, and his club in the other."

seems, had planted themselves in ambush to cut him off; but a few musquets being discharged, the Indians were so frightened by the report, that they made peace, having confessed that they took up arms by the orders of Powhatan. In a small creek called *Quigough** formed by the waters of the Patowmack, they saw a mine of antimony, which the Indians made use of to ornament themselves, and the faces of their idols.†

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No further account of any other material incidents of this voyage, has reached us. They returned to James' town on the seventh of September, having their boat loaded with corn. From this excursion Smith is said to have drawn a map of Chesapeake Bay, and of the rivers thereof, annexing to it a description of the countries bordering thereon, and the nations or tribes inhabiting them, which he sent to the council in England, and which is said to have been done with admirable exactness,‡ as we have before had occasion to mention. His superior abilities having obtained the ascendancy over envy

* As there does not appear in the best and latest maps of the states of Maryland or Virginia, any creek or water of this name, emptying into the Patowmack, we are left to suppose, from the similitude of sound, as before-mentioned, that this creek was what is now called the *Wicomoco* river, falling into the Patowmack on the Maryland side of that river, and dividing the counties of St. Mary's and Charles. It is possible, indeed, that it may have been the same as that now called *Yocomico* river, lower down the Patowmack, and on the Virginian side thereof, or the river called *Little Wigcomico*, at its mouth.

† Burk's Hist. of Virginia, Vol. 1, p. 121.

‡ Ibid. p. 127.

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The tenor
 of some
 instruc-
 tions from
 England
 to Virgi-
 nia.

About this time, Newport arrived with an additional supply of inhabitants, and with fresh "instructions" from the London Company. The tenor of these "instructions" demonstrates, that those who were engaged in the colonisation of America at this time, in England, were actuated more by the alluring prospects of a sudden acquisition of wealth, than the future benefits arising from colonies. The president and council of the colony were required to explore the western country, in order to procure certain intelligence of a passage to the South Sea; to transmit, as a token of success in the discovery of mines, a lump of gold; and to find some of the lost company sent out by Raleigh to Roanoke. And they threatened in a letter to Smith, that unless the charge of Newport's voyage, amounting to about two thousand pounds, was defrayed by the ship's return, they should be deserted, and left to remain there, as banished men. A reader of humanity could scarcely give credit to this fact, did he not find it recorded by a credible historian.* Thus far, then, we have not yet found, that either religious persecution or political oppression, or even the glory of propagating the Christian faith, however much talked of, were really and truly the prime and original motives to English colonisation.

A feeble attempt made in this and the preceding year, by the North Virginia or Plymouth company,

* Burk's History of Virginia, Vol. 1, p. 127, 148, and Holmes's Annals, Vol. 1, p. 162.

to plant a colony in that part of North America now called the District of Maine, deserves some notice.

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In 1607, Sir John Popham, then lord chief justice of England, and others concerned in the Plymouth Company, sent out two ships with a colony, under the government of George Popham, his brother, attended with Raleigh Gilbert, nephew of Sir Walter Raleigh, second in command. They sailed from Plymouth on the last of May, 1607, and on the 11th of August, landed on a small island, since called Parker's island, at the mouth of Sagadahoc or Kennebec river. Here they built a store-house and fortified it, and gave it the name of fort St. George. On the fifth of December, the two ships sailed for England, leaving a little colony of forty-five persons. During the winter, which was said to have been very severe, the governour or commander-in-chief, George Popham, died. They had the misfortune of losing all their stores by fire: so that when the ships arrived the next year, 1608, bringing with them the disagreeable intelligence of the death of Sir John Popham and Sir John Gilbert, in England, the great patrons of the colony, they were so dispirited, that they unanimously resolved to return with the ships to England, which they did. All the fruit of this expedition was the building of a barn, which was found to be of use to the succeeding colonists, who planted there some years afterwards.*

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An attempt of the Plymouth Company to settle a colony in Maine.

In the succeeding year, an important change took

* Hutchinson's History of Massachusetts, Vol. 1, p. 10. Holmes's Annals, Vol. 1, p. 160, 162.

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The second charter of Virginia, and the causes of granting it.

place in the London or South Virginia Company. Whatever their motives might have been, it seems that the members of that company thought it proper to petition the king, for a new organization of their body. Some have attributed this to that supreme direction of all the company's operations, which the king, by the former charter, had reserved to himself, and which discouraged persons of rank or property, from becoming members of a society so dependent on the arbitrary will of the crown.* Others have supposed, that the distractions and divisions, which had prevailed in the council in the colony, having created much mismanagement in their affairs, the company in England, were on that account, induced to request an alteration in their charter.† While others again, have attributed the desire of a change therein, to their inordinate thirst for a sudden accumulation of wealth;‡ which conjecture seems to be too much strengthened by the tenor of their last instructions, sent to the colony by Newport. The most probable motives, however, arose from a combination of the two last-mentioned causes; and, as a late writer upon it observes—disappointed in their sanguine expectations of a rich and immediate profit, they were willing enough to believe the representations of the discontented and envious, rather than suppose that they themselves

* Robertson's Hist. of America, Vol. 4, p. 192.

† Oldmixon's British Empire in America, Vol. 1, p. 235. Harris's Voyages, Vol. 2, p. 225. Mod. Univ. Hist. Vol. 39, p. 243.

‡ Holmes's Annals, Vol. 1, p. 164. Marshall's Life of Washington, Vol. 1, p. 42.

were mistaken in their calculations.* The king yielded to their request, and granted, what is commonly called, the *second charter of Virginia*, bearing date the 23d of May, 7 Jac. 1, (A. D. 1609).† By this the administration of the affairs of the colony was vested in a single person, under the denomination of a governour, who was to reside in the colony, and to act according to the orders, laws, and instructions of a council resident in England. The principal clause in this charter, which has any immediate relation to what is now the state of Maryland, is that which designates the extent of territory thereby granted. The king granted and confirmed to the company, “all those lands, countries, and territories, situate, lying, and being in that part of America, called Virginia, from the point of land called Cape or *Point Comfort*, all along the sea-coast to the northward, two hundred miles, and from the said point of Cape Comfort, all along the sea-coast to the southward, two hundred miles, and all that space and circuit of land, lying from the sea-coast of the precinct aforesaid, up into the land throughout from sea to sea, west and northwest; and also all the islands lying within one hundred miles along the coast of both seas of the precinct aforesaid.” There was certainly a great enlargement of their territories beyond what was expressed in their first or former charter; which seemed to have confined them to fifty miles, of English statute measure, northward and southward, along the coast

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* Burk's Hist. of Virginia, Vol. I, p. 148.

† See this charter at large in Hazard's Collections, Vol. 1, p. 58.

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of America from the *first seat* of their plantation and habitation, which was James' town, and only one hundred miles back into the country from the sea-coast. But the country granted by this second charter, included nearly one-third of the present United States. The extent of it "from sea to sea," that is, from the Atlantic to the Pacific ocean would have been absurd, could it be supposed, that they were then acquainted with the real distance between those seas across the continent of North America, in the latitude of Point Comfort. But it would seem, from the tenor of their last instructions to the president and council, sent out by Newport, before referred to, that they were at that time strongly possessed with the idea, either that a passage to the south sea westward, through some inlet, would soon be discovered, or that the distance to that ocean across the continent was but very short, compared with what it has been since found out to be. Into this mistake they seem to have been led, not only by the previous discoveries of the Spaniards at the narrow isthmus of Darien, but also by some accounts given by the Indians to captain Smith, when he was exploring the Chesapeake, of great waters lying to the westward, not far distant; obviously meaning the lakes, and not the Pacific ocean.* Another observation on this charter occurs, in relation to the subsequent grant by Charles I, to Lord Baltimore, which at first was so loudly complained

* Marshall's Life of Washington, Vol. 1, p. 40. It is worthy of notice, however, that Powhatan told Smith, that all the accounts he had received, "of salt waters beyond the mountains," were false. Burk's Hist. of Virginia, Vol. 1, p. 129.

of as unjustly lopping off so much of the territories of Virginia. The absurd aspect of the extent of territory granted by this second charter of Virginia, left this solitary question only—how, and where its excrescencies should be pared off? That it was too large for any kingdom or commonwealth upon earth, admitted of no doubt.

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The last and concluding clause in this charter, seems also to claim some notice, as it manifests the temper of those times in relation to religious controversies, and indicates those causes which eventuated in about twenty years afterwards, in the settlement of a colony of English Catholics in Maryland. "And lastly, because the principal effect which we can desire or expect of this action, is the conversion and reduction of the people in those parts unto the true worship of God and Christian religion,* in which respect we shall be loath that any person should be permitted to pass, that we suspected to

* This cant pervades all the early charters of North America, both French and English. As the emperor Powhatan was well known to entertain a most inveterate hatred to the Anglo-Virginians, on account of their invasion of his territories, his sentiments on the above clause, could he have read it, would very probably, have been similar to those of the Indian cazique of Cuba; to whom, when fastened to the stake to be burnt, a Franciscan friar, labouring to convert him, promised immediate admittance into the joys of heaven, if he would embrace the *Christian faith*. "Are there any Spaniards," says he, after some pause, "in that region of bliss which you describe?" "Yes," replied the monk, "but only such as are worthy and good." "The best of them," returned the indignant cazique, "have neither worth nor goodness; I will not go to a place where I may meet with one of that accursed race!"

SECT. affect the superstitions of the church of Rome, we
 VII. do hereby declare, that it is our will and pleasure,
 1609. that none be permitted to pass in any voyage, from
 time to time, to be made into the said country, but
 such as first shall have taken the *oath of supremacy*:
 for which purpose, we do by these presents, give
 full power and authority to the treasurer for the time
 being, and any three of the council to tender and
 exhibit the said oath, to all such persons as shall at
 any time be sent and employed in the said voy-
 age."*

The set-
 tlement of
 the Dutch
 at New
 York.

The Dutch nation, notwithstanding their con-
 stant war with Spain for many years, for their inde-
 pendence, which about this time was acknowledged
 by all, except their ancient masters, had now attain-
 ed to a considerable extent of trade in the East In-
 dies; insomuch that the States General, had, in
 1602, thought it proper to erect, what is styled by
 historians, the Dutch East India Company. The
 great length of the passage to the East Indies, by the
 Cape of Good Hope, being productive of many in-
 conveniences, the company became anxious, as in-
 deed all the rest of Europe had long been, to explore
 some more convenient route thereto. With this
 view, they employed captain Henry Hudson, an En-
 glishman, to find out what was supposed, and called
 a northwest passage. Being furnished by the com-
 pany with a vessel, equipped with all necessaries,
 and with twenty men, English and Dutch, he sailed
 from the Texel in the beginning of the year 1609,

* This clause will be animadverted upon more at large in a
 subsequent part of this work.

and pursuing a westward course, fell in with the coast of Newfoundland. He is said to have shaped his course from thence to Cape Cod; looked into the Chesapeake, where the English were settled; anchored off the Delaware, and penetrated up the river on which New-York is situated, called after him, Hudson's river, as far north as the latitude of 43°. The consequence of this voyage, is said to have been, that the Dutch, having purchased of him his chart of discoveries on the coast, sent some ships next year to the place, then called Manhattan island, on which the city of New York now stands, and in process of time, settled a colony there and at Albany, higher up the river; calling the province New Netherlands, which, agreeably to their claims, extended so far south as to comprehend what is now called the Delaware state, Pennsylvania, and the Jerseys.*

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Although Sir Humphrey Gilbert, as before-mentioned, had taken formal possession, in her majesty's name, of the island of Newfoundland, yet hitherto no settlements had been made thereon; which probably may be attributed to the coldness of the climate and the barrenness of the soil. However, Mr. John Guy, a merchant, and afterwards mayor of Bristol, who, in the year 1609, wrote a treatise to encourage persons to undertake a settlement there, by his writing and solicitation, succeeded so well, that in the following year king James made a grant, dated April the 27th, 1610, to Henry Howard, Earl

1610.

English
attempt to
settle
New-
foundland.

* Mod. Univ. Hist. Vol. 10, p. 293. Smith's Hist. of New-York, p. 14. Proud's Hist. of Pennsylvania, Vol. 1, p. 109. Holmes's Annals, Vol. 1, p. 167.

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1610.

of Northampton, lord keeper, Sir Lawrence Taffield, lord chief baron, Sir John Dodderidge, king's sergeant, Sir Francis Bacon, then solicitor-general, afterwards lord chancellor, and created Lord Verulam, together with the above-mentioned Mr. John Guy, divers other merchants of Bristol, and other persons therein mentioned, by the name of the Treasurer and Company of Adventurers and Planters of the cities of London and Bristol, for the colony or plantation in Newfoundland; from north latitude forty-six to fifty-two degrees, together with the seas and islands lying within ten leagues of the coast. The proprietors soon after, in the same year, sent the before-mentioned Mr. Guy, as conductor and governour of a colony of thirty-nine persons, who accompanied him to Newfoundland, and began a settlement at Conception bay.* It appears, that this attempt to form a settlement there, did not succeed; and we are told, that Mr. Guy returned to England again, after residing there for two years, with little advantage. A part of his colony, if not the whole of them, returned with him.†

As the shipwreck of Sir Thomas Gates and Sir George Somers, on the Bermuda islands, in their voyage to Virginia, in the year 1609, had made the colonists acquainted with the produce, pleasantness, and beauty of those islands, whose accounts thereof reached the company in England, they were induced to apply to the king, to obtain an enlargement of

* Holmes's Annals, Vol. 1, p. 172.

† Oldmixon's British Empire in America, Vol. 1, p. 3. Mod. Univ. Hist. Vol. 39, p. 249. Also, see note (I), at the end of this volume.

their territories, so as to include these islands. Considerable deficiencies, as to their necessary powers in conducting the affairs of the Virginia colony under their then existing charter, appearing to them to require remedy, afforded additional inducement to them to apply for supplemental authority, whereby they might be enabled to remedy existing abuses, not only in the government of the colony, but in procuring the means of defraying the charges and expenses of supporting it. They accordingly obtained from the king a new patent, called by some writers the third charter of Virginia, bearing date March 12th, 9 Jac. 1, (1611-12.) By this the king gave, granted, and confirmed "to the treasurer and company of adventurers and planters of the city of London, for the first colony in Virginia, and to their heirs and successors forever, all and singular those islands whatsoever, situate and being in any part of the ocean, seas bordering upon the coast of our said first colony of Virginia, and being within 300 leagues of any of the parts heretofore granted to the said treasurer and company, in our said former letters patent as aforesaid, and being within or between the one-and-fortieth and thirtieth degrees of northerly latitude." They were authorized also, to hold four great and general courts, at the four usual feasts in the year; and therein to elect and choose members of the council in England, for the said colony, and to nominate and appoint officers, and to make laws and ordinances for the good and welfare of the said plantation. Besides other incidental powers, apparently necessary, they authorized the company to establish lotteries, in order to raise money for their

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VII.

1610.

1612.

The third
charter of
Virginia.

SECT. necessary expenditures.* It appears, however, from
 VII. the whole purview of this instrument, that it was

1612. intended, not as an abrogation, but as a *deed of confirmation* of their former charter. Their territories, therefore, were not abridged by it in their enormous extent, but on the sea-board were considerably enlarged. In order to derive their promised utility from the Bermudas, it was not thought necessary, it seems, for them to retain those islands, as a part of their territories, for they immediately sold them to another company, who thereupon sent out a colony to settle them.

The French and Dutch, now making some progress in their settlements on the North American continent; the former in Acadie, now called Nova Scotia, and in that part of the United States called the District of Maine; the latter in the state of New York: Sir Thomas Dale, the governour of Virginia, in virtue of the claim of the English to the whole northern part of America, by reason of Cabot's prior discovery of it, sent an armed expedition in the year 1613, under captain Samuel Argall, to break up and destroy those settlements. He did so as to those of the French; but, as he left no garrison to keep possession of the places where they had settled, they soon afterwards resumed their former stations. On his return to Virginia, he visited the Dutch settlement on the Hudson; and, on his demanding the possession thereof, the Dutch governour, Hendrick Christizens, incapable of resistance,

1613.
 Captain
 Argall's
 expedition
 to break
 up the
 French
 and Dutch
 settle-
 ments in
 Nova Sco-
 tia and
 New
 York.

* See the charter at large, in Hazard's Collections, Vol. 1. p. 72.

peaceably submitted himself and his colony to the king of England, and, under him, to the governour of Virginia, consenting to pay a tribute. But in the next year, a new governour from Amsterdam arriving, with a reinforcement, asserted the right of Holland to the country; refused the tribute and acknowledgment stipulated with the English by his predecessor, and put himself into a posture of defence. He built a fort on the south end of the island Manhattan, where the city of New York now stands, and held the country many years, under a grant from the States General, by the name of the New Netherlands.*

* Holmes's Annals, Vol. 1, p. 162, 179. Marshall's Life of Washington, Vol. 1, p. 57.

SECTION VIII.

Reasons for the following digression—Rise of the reformation—Its progress through the continent of Europe—Its introduction into England—The origin of the Puritans—Divisions among the Puritans—State of religious parties in England, on James I's accession—The Independents emigrate to Holland—Their distressing situation there—They form the design of removing to America—Negociate with the Virginia Company for that purpose—Dissensions in the Virginia Company occasion delay—They embark for America, and settle at Plymouth, in Massachusetts.

IT is a common remark throughout the United States of America, that most of these states were originally colonised by means of religious persecution, which the first settlers of them experienced in their mother country; and the provinces of New England, Maryland, and Pennsylvania, are generally cited as instances thereof. But when we recur to the records of history, at the period of time when the colonies of New England and Maryland were first settled,* and find that the mother country was then a scene of the most tumultuous contest between three principal sects of the Christian religion, the established Church of England, the Roman Catholics, and the Puritans,† a contest, not indeed for

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Reasons
for the fol-
lowing di-
gression.

* The colony of Virginia, the only English colony prior to those last above-mentioned, unquestionably originated from the Spanish views of gold and silver mines, as well as from a desire to find out a short passage to the East Indies, and not from religious motives.

† The appellation of "Puritans," included, during Elizabeth's reign, the *Presbyterians*, as well as the *Brownists*, the latter of whom were afterwards called *Independents*.

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the *supreme power* merely, but each for its own *existence*; and find also, that at the close of the scene the established Church gave many instances of her moderation, not exhibited by either of the others when in power, we are compelled, if not entirely to excuse, at least to make much allowance for her conduct in the causes of those first emigrations. The reign of queen Mary abundantly demonstrated that the English Roman Catholics would tolerate neither the Church of England nor the Puritans. And the conduct of the Puritans, in their turn, at the helm of power, will equally convince us, that neither Church nor Catholics were to expect toleration from them.* Nay indeed, these Puritans, when at the height of their power, and the sceptre of England was wielded by the hypocritical Cromwell, had their agents of persecution, even in the infant colony of Maryland. Among the "Acts and orders of a general assembly, holden at Patuxent (Maryland) the 20th of October, 1654, by commission from his highness the lord protector," &c. is an act, entitled, "An Act concerning religion," whereby, "it was enacted and declared, That none, who professed and exercised the *Popish* (commonly called the Roman Catholic) religion, *could be protected in this province*, by the laws of England, formerly established, and yet unrepealed: nor by the government of the commonwealth of England, &c.

* By an ordinance of the 23d of August, 1645, imprisonment for a year, on the third offence, and pecuniary penalties on the former two, were inflicted, in case of using the Book of Common Prayer, not only in a place of public worship, but also in any private family. See 4 *Bl. Com.* 53.

but to be restrained from the exercise thereof, &c. That such as profess faith in God by Jesus Christ, though differing in judgment from the doctrine worship, or discipline publicly held forth,* should not be restrained from, but protected in, the profession of the faith and exercise of their religion; so as they abused not this liberty, to the injury of others, disturbance of the peace, &c. *Provided* such liberty was not extended to *Popery* or *Prelacy*, nor to such, as, under the profession of Christ, held forth and practised *licentiousness*.”† The reader will easily see through the flimsy veil of this insidious proviso. As “*Prelacy* is synonymous to *Episcopacy*, and the Church of England could not exist without the government of its *bishops*, it is very fairly to be supposed, that it was meant thereby to exclude that Church also, as well as the Catholics, from the exercise of their religion in this province. But be that as it may, the crime of “*licentiousness*” was certainly so indefinite as to leave ample occasion for unlimited persecution; and a slight perusal of the early part of the History of Massachusetts, will furnish numerous instances of the wild judicial constructions put by these fanatics on similar legislative expressions.

Thus then, as the causes of the colonisation of New England and Maryland, which are nearly coeval, appear not to be clearly understood, in the United States, or if so, not generally acknowledged,

* This meant, without doubt, the doctrine and discipline of the *Independents*, forming at that time in England, under Oliver, what might be called, the established religion or Church.

† See Bacon's edition of the Laws of Maryland, 1654, ch. 4.

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it is here hoped, that it will afford some apology for leading the reader, in a very cursory manner, through the scenes of religious transactions in England, attending the progress of the reformation, and the consequent struggle, between the three great religious sects before-mentioned, for that earthly political crown, which was to bring the others as humble vassals at the victor's feet.

1517.
Rise of the
reforma-
tion.

When Pope Leo X, in the beginning of the sixteenth century, by his profuse liberality in the patronage and encouragement of the arts and sciences, in the collection and publication of valuable and scarce books, and also in the completion of that superb edifice at Rome, St. Peter's church, but more especially by his inordinate ambition to aggrandize his family, the house of Medici, of Florence, had exhausted the revenues of the church, he was constrained to adopt such devices as suggested themselves to him, to replenish the coffers of the holy see. As the Christian religion, in its then organized state, acknowledged, and in the consent of a large majority of that religion* still acknowledges, the papal power, of granting a pardon and remission of all sins, Leo was naturally induced, through his philosophic and unbelieving mind, to yield to the superstition of his flock. He, therefore, in the year 1517, published all over Europe general *indulgences* in favour of such as would contribute sums of money for the building of St. Peter's church,

* "Three-fourths of Europe consist at this moment (1805) of Christians professing the Roman Catholic religion." Mr. Fox's speech in the house of commons, on the Catholic petition, May 13th, 1805.

and at the same time appointed two persons in each country to recommend those indulgences by preaching, and to receive the money for them. As religious indulgences are founded on the infinite treasure of the merits of Jesus, the holy virgin, and all the saints, which it is supposed Christ's vicar upon earth has a right of distributing, by virtue of the communion of saints, it must be allowed, that Leo fell upon a most apt, though not a novel mode, of recruiting the treasures of the apostolic chamber, of Rome. But an unfortunate incident in the mode of collecting this revenue, brought such a storm upon the church, as to shake the proud fabric to its basis. The person appointed by the pope for this purpose, in the northern part of Germany, particularly in Saxony, was Albert, archbishop of Magdeburg and Mentz. That prelate, either by his own authority, or by order of the pope, bestowed the commission for distributing these indulgences on the order of *Dominican* friars, instead of that of the *Augustine* friars, as had been usual, and, as it seems, in consonance to the convention which had been made among the four orders of mendicants. This preference sorely vexed the *Augustine* friars, who considered the neglect as a contempt upon their order; perhaps also, at the same time regretting to see themselves frustrated of the share they might have had of the money. These indulgences certainly appear to the eye of reason, however long they may have been sanctioned by Christian usage and practice, as totally repugnant to those moral principles, adopted by the common consent of all mankind, in

SECT. all ages, as the best ligaments of human society.*

VIII.

1517.

In this point of view the Augustines did not omit to place them; and the Dominicans, by their indiscreet conduct in relation to them, gave their enemies ample room to exercise their envious and malignant passions. Offices were everywhere set up, even in taverns, where the collectors consumed in riot and debauchery a great part of the profits produced from this traffic of the sacred treasures of the church. John Stulpitz, or Staupitz, vicar general of the Augustines in Germany, being supported by the elector of Saxony, who had a particular regard for him, was the first who openly attacked the sermons of the Dominicans, and the abuses which were committed in the distribution of the indulgences. The better to promote his opposition, he selected for his colleague and assistant Martin Luther, a preacher of the same order of Augustine friars, and a doctor of Wittenberg, whose name has since been so well known in the world. As he was a man of an ardent, zealous, and enterprising temper, and possessed considerable talents for both writing and eloquence, and remained safe also from the thunder of the Vatican, under the protection of the elector of Saxony, his doctrines soon gained numbers of proselytes throughout all Germany, and indeed set all Europe in a blaze of zeal for reforming the abuses of the Church. In addition to this, it may be observed, that the minds of the people of Europe had been already, in some measure, prepared for the occasion, by that diffusion of ancient litera-

* See note (K) at the end of the volume.

ture, particularly the Platonic philosophy, which resulted from the invention of printing. The combustible materials had been collected. It only required the intrepidity of such a man as Luther to apply the spark.—From such sources originated that great event so well known in history under the name of the reformation.*.

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Minor reformers soon sprung up in numbers, sketching out different schemes of reformation, in such different shades of opinion as best suited their fancy. In Switzerland, Zuinglius declared himself an advocate for the doctrine of Luther, and imitating his conduct, declaimed warmly against the person who was appointed to publish the indulgences in that country. Subsequently, however, differing in opinion from Luther, on the doctrine of the Eucharist, he became the founder of the sect in Switzerland called *Sacramentists*.† The *Anabaptists* also, in Germany, grew out of Luther's heresy; though he took pains to disown them, and to have them repressed. They boasted of immediate revelations to themselves, and taught that men ought to regulate their conduct by the visionary precepts which such supposed inspiration might dictate. They destroyed all the books that happened in their way, but the Bible. They despised not only ecclesiastical but civil laws; and held that all government was nothing but usurpation. They were for having all things in common, and for every

Its progress
through
the continent
of Europe.

1521.

* Du Pin's Hist. of the Church, Cent. xvi, ch. 6. Mod. Univ. Hist. Vol. 29, p. 500.

† Du Pin's Hist. of the Church, Cent. xvi, ch. 7, 11.

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man's being free and independent, and promised themselves a happy empire, in which they would reign alone, after having extirpated all the wicked. Encouraged by this doctrine, the peasants and boors throughout Germany rose up in arms, and threatened destruction to every government. In private life they were not less wild and dangerous. One of their leaders in Switzerland, in the presence of his father and mother, cut off his brother's head with a sword, assigning to them as a reason for it, that he was commanded by God to do so. Two of their principal leaders, natives of Holland, John Matthias, who had been a baker at Haerlem, and John Boccold, or Boukeis, a journeyman-taylor of Leyden, aided by their followers, took forcible possession of the city of Munster, in Westphalia. Matthias, assuming the power of a prophet, governed the city, until he was killed in a sally by the bishop of Munster's troops, who besieged it. He was succeeded by Boccold, who, in imitation of king David, danced naked through the streets, and caused himself to be crowned king of Sion. He ordered his minor prophets to preach to the people, that it was one of the privileges granted by God to the saints, to have a plurality of wives. To set the example, he himself married three. As he was allured by beauty or the love of variety, he gradually added to the number of his wives, until they amounted to fourteen; nor was any private man allowed to remain with one only. As it was instant death to disobey this tyrant in anything, one of his wives having uttered certain words that implied some doubt concerning his divine mission, he immediately called the whole

number of them together, and commanding the blasphemer, as he called her, to kneel down, he cut off her head with his own hands; and so far were the rest from expressing any horror at this cruel deed, that they joined him in dancing, with a frantic joy, around the bleeding body of their companion.* It is but justice, however, to the modern Anabaptists to add, that these extravagant and fanatic notions have been long since relinquished by them.†

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1534.

Next in order came the grand reformer of the reformed, John Calvin. He seems to have been more remarkable for his talents as a controversial writer, than as a preacher. As the heresies of the before-mentioned reformers did not find a ready access into France, of which Calvin was a native, he was forced into a kind of voluntary exile to other countries, to propagate such doctrines as he might think convenient to propose. The glory of being the founder and head of a religious sect, is scarcely less intoxicating than that of being at the head of an empire. With a mind filled, without doubt, with this sort of ambition, he wandered to Geneva. As this city formed in itself a little independent republic, being but a few years before emancipated from the tyranny of the dukes of Savoy, and as the heresies of Luther and Zuinglius, by the preaching of William Farel, a French Protestant refugee, and other reformers, had gained so much ground in this city, that the *Gospellers*, as they were there called, had driven the

1536.

* Robertson's Hist. of Charles V, book 5th, Du Pin's Hist. of the Church, Cent. xvi, ch. 8 and 10, Bayle's Hist. Dict. art. Anabaptists.

† See note (L) at the end of this volume.

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VIII.

1536.

Catholic bishop out of the city, and seized both the ecclesiastical and temporal power into their own hands, it became the great asylum for all the French refugees, who were discontented with the established religion of their own country. Here John Calvin was persuaded by his friend Farel to fix his abode. Calvin was to write, and Farel was to preach, and thus they were jointly to defend their possession of the temporal as well as ecclesiastical powers of the little state. They soon found cause of disagreement with their friends and allies the Bernese, who were Lutherans. They abominated the practices of these Bernese Lutherans, in making use of unleavened bread in their sacrament, and of women being married with their hair dishevelled. The inhabitants of Geneva still retained also their fondness for other holydays besides Sundays; and their reformation in manners did not keep pace exactly with their reformation in doctrines. To punish these propensities to sin, Calvin and his coadjutor refused to administer the sacrament to them. The citizens enraged rose in a body, and drove them both out of the city. Calvin, however, soon contrived to raise a powerful faction in his favour, and in a year or two, (1541,) he was solicited to return. He returned, indeed, with redoubled influence and power. The first thing he did was to establish a form of discipline and a consistorial jurisdiction, with power to exercise canonical censures and punishments, even to excommunication. He shut up all taverns, prohibited all prophane dancing and singing, and put a stop to all sports.

1541.

In vain, did the more rational part of the citizens

complain, that this was re-establishing the tyranny of the church of Rome. Calvin had the syndics on his side; and the contumacious were threatened with excommunication, if they did not submit. A member of the council, however, had the courage to impeach his doctrine as being unsound; but the magistrates, without further inquiry, committed him to prison, and condemned him to do penance for his accusation, by walking through the city with a torch in his hand; probably intimating thereby, that he deserved to be burnt as a heretic. One Bolsec, a physician, who had denied Calvin's doctrine of predestination, and said that he made God the author of sin, was first imprisoned, and then banished the city, under the penalty of being whipped if he ever returned there again. But the most impious abuse of the secular power, in matters of religion, happened in the case of the famous Michael Reves, commonly called Servetus, a Spaniard, and one of the most learned physicians of that age. He had been imprisoned for his opinions, at Vienna; but making his escape from thence, he took refuge at Geneva. It was natural for him to hope for an asylum, amongst a people who had founded their liberties upon their right of thinking for themselves on religious subjects, and disclaiming authority in points of conscience: he was fatally deceived. On his arrival at Geneva, he was thrown into prison, and accused by Calvin of some heterodox opinions with regard to the Trinity, and other articles of faith. He was at the same time robbed by the magistrates of a gold chain, and a considerable sum of money, which never were returned to him; so that

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VIII.

1541.

1551.

1553.

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1553.

he was in great danger of perishing during his imprisonment, for want of the common necessities of life. Being called upon to make his defence, he did it with so much freedom and learning, that Calvin could oppose him with nothing but the secular power, which condemned him to be burnt alive. Servetus suffered this sentence without retracting his opinion, to the indelible infamy of all those who were concerned in it. As an explanatory supplement to the sentence against Servetus, may be added that which was given in, about two years afterwards, against Philibert Bertellier, who was a native of Geneva, and register there of one of the inferior courts of justice. He was first excommunicated by Calvin's consistory, and then a criminal sentence against him by the syndics and council, was publicly given and pronounced, accompanied with sound of trumpet: "That the said Philibert, *for the horrid and detestable crimes of conspiracy against the holy institution and Christian reformation, and against this city, and the public good and tranquillity thereof, be condemned to be bound and brought to the place of execution, there to have his head cut off, his body to be quartered, and his members to be set up in the four most eminent places round about this city, for an example to others, who shall commit such crimes.*" But having secretly fled out of the city, he was so fortunate as to escape the terrible punishment that awaited him. As Calvin, unquestionably, had the civil as well as the ecclesiastical power of Geneva under his direction, to him, principally, may be attributed these dreadful persecutions. A little while before the death of this

1555.

arch persecutor, two citizens were put to death for adultery : nor did these bloody deeds cease with his breath ; his successors in his consistory, appear to have carefully copied his intolerant practices. A poor miserable maniac, in the succeeding century, professing himself a Jew, and perhaps, as his religion dictates, speaking contemptuously of Christ, was strangled and burnt. In short, the rack and the faggot became familiar modes of punishment, as well for heresy as for treason, with the citizens and syndics of this petty republic.*

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Amidst all this religious uproar throughout the continent of Europe, it was not to be expected that England would remain quiet ; especially as there still subsisted in that kingdom considerable remains of the Wickliffites, commonly called Lollards, whose principles resembled those of Luther. But Henry VIII, among the most arbitrary tyrants that ever sat upon a throne, was at first more unusually strenuous against the reformation than any other monarch in Europe. He not only used his power to suppress its entrance into England, but turned author, and wrote a book against Luther and his doctrines, for which he received from Pope Leo the glorious title of *Defender of the Faith*. But what the fantastic zeal of the Lollards and the Lutherans could not effect, was soon produced by the youth, beauty, and charms of the accomplished Anne Boleyn. Finding that her virtue and modesty, pre-

1531.

Its introduction into England.

* See Robertson's Hist. of Charles V. b. 11. Mod. Univ. Hist. Vol. 37, p. 292, 300. Boyle's Hist. and Crit. Dict. artic. Calvin, Bolsec, Bertellier. And note (M,) at the end of this volume.

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vented all hopes of gratifying his passion for her in any other manner than by marriage, Henry formed the resolution of being divorced from his then wife, Catherine of Arragon. Some scruples, which had been before that time, suggested about the propriety of marrying a brother's wife, as Catherine had been, afforded some plausible grounds for him to go upon. But as Pope Clement, who had succeeded Leo, was entirely under the awe and influence of the emperor Charles V, who opposed the divorce, on account of the honour and interests of queen Catherine, who was his aunt, Henry found more difficulty than he expected, in obtaining the formal consent of the holy pontiff to annul his marriage. His passions, always violent, not admitting of such delay, rather than wait such slow proceedings in untying the knot, he chose to cut it, by throwing off at once, all subjugation to the papal power. He caused his own clergy to try the validity of the marriage, and to annul it as unlawful, while at the same time, if not prior to it, he married Anne Boleyn. Mean-while, the Lutheran doctrines had, as it were, stole into his dominions, and had gradually disposed his parliament and his subjects, so far to join in the reformation as to renounce all submission to the power and authority of the see of Rome. With this disposition of the nation, Henry in some measure coincided, and connived at the introduction of the reformation into England. But, as the reformers on the continent had exhibited many symptoms of a republican spirit, especially in the furious insurrections of the Anabaptists in Germany, there was little probability, that so absolute a king

would ever give favour or countenance to any doctrine, which lay under the imputation of encouraging sedition. Besides, this political jealousy having gained much honour, as he thought, in his polemical writings against Luther, and elated with the most lofty opinion of his own erudition, he received with impatience, mixed with contempt, any contradiction to his own religious sentiments. He seemed, therefore, to play together the two factions of Protestants and Catholics so as to suit his own purposes. The consequence was, that during his reign, few innovations on the doctrines of the ancient Catholic religion were allowed by him, except the renunciation of all papal authority in England, the dissolution of the monasteries and nunneries, and some little alteration in the mass-book.*

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On the death of Henry, his crown descended to his son Edward VI, who was then a minor of about nine years old. As he was incapable at that age of exercising the powers of royalty, his father had endeavoured to provide for that incapacity by appointing persons to administer the affairs of the government until his arrival at age. But the relations of Edward, by his mother's side, particularly Edward Seymour, duke of Somerset, his uncle, contrived to set that appointment aside, and to have the wardship of young Edward, as well as the administration of the government vested solely in him as lord protector. The duke was a zealous reformer, and consequently was careful that no other religious principles should be instilled into his nephew's mind,

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* Hume's Hist. of England, chap. 29, 30, 31, 32.

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than those which he himself approved. The young king, therefore, as he grew up, manifested much zeal for the reformation. As the majority of men in most countries are apt to adopt those religious opinions to which preferment and profit are annexed, those early inclinations of young Edward had a powerful effect in converting the bulk of the nation to the modern heresies, especially among the courtiers, who with every probability, had not fairly calculated upon a total abolition of the ancient religion. The protector, therefore, aided by the zeal of young Edward, who, it is said, exhibited an uncommon understanding for so young a man, found but little difficulty in effecting his design of establishing a hierarchy in England, which should partake, in a moderate degree, of the doctrines of the reformers in the rest of Europe. In these schemes he usually had recourse to the counsels of Cranmer, archbishop of Canterbury, who being a man of moderation and prudence, was averse to all violent changes, and advocated the mode of bringing over the people by insensible innovations, to that system of doctrines and discipline which he deemed the most pure and perfect. It is a feature of the reformation easily traced throughout its history, that whenever it prevailed over the opposition of the civil authority, it raged, like a torrent, disregarding any bounds. Such reformers, to show their detestation of the numerous and burthensome superstitions with which the Romish church was loaded, proscribed all rites, ceremonies, pomp, order, and exterior observances, as impediments to their spiritual contemplations, and obstructions to their immediate converse with

heaven. But where it was introduced by the rulers of the government, as in England, the transition was more gradual; much of the ancient religion was still preserved; and a reasonable degree of subordination was retained in discipline, as well as some pomp, order, and ceremony in public worship. With this spirit, the English reformers proceeded; and by the aid of acts of parliament, during the short reign of Edward, completely established that hierarchy, denominated the Church of England, nearly in the same doctrines and form of worship in which it exists at this day.

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But, unfortunately for the English reformers, the life of Edward was but of short duration: he died in the year 1553, in the sixteenth year of his age. The crown descended to his sister Mary, who, notwithstanding all the earnest importunities of her brother, as well as of the reformed bishops, had still persisted in adhering to the ancient religion. Being educated by her mother Catherine of Arragon, she had imbibed the strongest attachment to the catholic communion, and the highest aversion to the new tenets. Naturally of a sour and obstinate temper, she was well fitted in mind to become a bigot; and her extreme ignorance rendered her utterly incapable of doubt in her own belief, or of indulgence to the opinion of others. It was not long, therefore, before she discovered her intentions of not only abolishing the newly established religion, but of persecuting its professors. The good old christian principle of "compelling men to come in, that

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the house may be filled,"* not a little recommended by Luther in Germany,† and ardently adopted and enforced by Calvin in Geneva, was now as zealously revived in England by Mary. She disliked the tedious mode of punishing heretics by prescribing to them oaths and *declarations of belief*, and depriving them in that manner of all political as well as religious liberty, as modern protestants do in another quarter of the world, than either Europe, Asia, or Africa. She took the shorter method of roasting them alive; by which means the faithful got rid of them at once. The beneficial effects of this mode of Christian compulsion were soon perceived, in a general return of the English nation to the good old way of thinking in religious matters; except indeed a few, who made their escape into Germany, Switzerland, and Geneva, and whom we shall presently see returning again from their foreign travels, much improved in their religious opinions, according to their own estimation.‡

1553.

The triumph of the Catholics, and the sufferings of the reformers in England, were not however des-

* See the parable of the great supper, Luke xiv, 23.

† Luther allowed of persecution, as far as *banishment*; but Calvin thought it lawful to put heretics to death. Tindal's Cont. of Rapin's Hist. Vol. 15, p. 274. See also an account of Luther's persecution of his friend *Carlostadt*; Roscoe's Pontificate of Leo X, ch. 19.

‡ Leave was given to the celebrated Peter Martyr, and other reformers, who were foreigners, to quit the kingdom. Under this leave, many English, to the amount of a thousand, it is said, under pretence of being foreigners, withdrew from England. Rapin's Hist. of England, (Tindal's edit.) Vol. 7, p. 117, and Vol. 15, p. 276.

tined to be long. The cruel reign of Mary was short, and as she died without issue, her crown descended to her sister Elizabeth, whose mother being of the reformed religion, she herself adopted it with ardent zeal, as Mary had that of the Catholic. In this singular series of events the English nation had to turn round again, and to try, if the heretical coat, which Mary had lately obliged them to put off, would still fit them, and once more become fashionable among them. Elizabeth found little difficulty in making this reconversion of the nation. Although the Catholics had in the preceding reign, by the bigotry of Mary, obtained the reins of power completely into their own hands, and had apparently reduced the nation back to the communion of the Catholic church, yet it seems to be clearly established by the concurrent events of the times, that a majority of the people were attached to the reformed religion. The queen proceeded cautiously and gradually in the alteration, and, like her predecessor, availed herself of the authority of a parliament chosen to her own mind for that purpose. By their sanction the obnoxious statutes of the former reign were repealed, and such re-enacted as were necessary to place the reformed Church of England nearly, if not precisely, in the same situation as her brother Edward had left it, and as we now see it. Prior to the session of parliament, however, and soon after her accession to the throne, she had deemed it requisite to discover such symptoms of her intentions, as might give encouragement to the protestants, so much depressed by the late violent persecutions. She therefore recalled all the exiles who had fled out

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Origin of
the Puri-
tans.

of the kindom, as before-mentioned, and ordered all persons confined in prison on account of religion to be immediately discharged. As it is natural for those, who have been persecuted for their zeal in any particular object, to feel a more inveterate animosity to the usages and practices of those from whom they receive the persecution than they would otherwise have done, had their zeal been left to itself to spend its first fury, so the most zealous reformers in England, after Mary's reign, became more anxious to push the reformation to a much greater excess than it had been carried to in the reign of Edward. The English exiles also, especially those who had resided at Geneva, came back to England, full fraught with all the splenetic inveteracy of John Calvin, against the superstitions of the church of Rome. Added to this also, the reformation had commenced in Scotland, shortly after the accession of Elizabeth, under the patronage of John Knox, who had just then arrived from Geneva, where he had passed some years in banishment, and where he had imbibed from his commerce with Calvin the highest fanaticism of the Calvinistic sect, augmented by the native ferocity of his own character. The contagion of that spirit, which dictated the outrages committed by Knox and his followers, in that neighbouring kingdom, could not be prevented from spreading itself also into England. The English exiles, thus impressed with Calvinistic principles, were not a little disappointed, on their return, in finding, that the reformed Church of England, as settled by Elizabeth, still retained so much of what they denominated the abominable idolatry of the

Catholics. Being regarded with general veneration on account of their zeal and past sufferings, they were emboldened to insist, that the reformation should be established on that model which they deemed most pure and perfect. The restraints of the priest, the sign of the cross in baptism, the use of the ring in marriage, with several other rites which long usage had accustomed the people to view with reverence, were deemed by the moderate English reformers, inoffensive observances, which they were willing to retain; but the fanatics rejected them with horror, as "badges of idolatry and the dregs of the Romish beast." Elizabeth herself, however, so far from being willing to strip the church of the few ornaments and ceremonies which remained in it, and which at least served, in a very innocent manner, to amuse, allure, and engage the attention of the vulgar, was rather inclined to bring the public worship still nearer to the Romish ritual. The consequence was, that a schism took place among the reformers in England; and the zealots, who were for carrying the reformation to the greatest extent, were, on account of their pretending to a superior *purity* of worship and discipline, denominated *Puritans*.*

These Puritans, however, were far from being united among themselves, as to a uniformity of principles. The more sober and learned among them, inclined to that form of ecclesiastical policy,

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Divisions
among the
Puritans.

* Hume's Hist. ch. 40, who cites Camden, as fixing upon the year 1568, for the period when the Puritans began to make themselves considerable in England.

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which is known by the name of Presbyterian : but, such as were more thoroughly possessed with the spirit of innovation, reprobated the authority which the Presbyterian system vests in various judicatories, descending from one to another in regular subordination, as inconsistent with Christian liberty. Of this latter sort of Puritans, one Robert Brown, a popular declaimer in high estimation, modelled a distinct sect, which, from him took the name of *Brownists*.* He taught, that the Church of England was corrupt and anti-christian, its ministers not lawfully ordained, its ordinances and sacraments invalid, and therefore he prohibited his people to hold communion with it in any religious function. He maintained, that a society of Christians, uniting together to worship God, constituted a church, possessed of complete jurisdiction in the conduct of its own affairs, *independent* of any other society, and unaccountable to any superior ; that the priesthood was neither a distinct order in the church, nor conferred an indelible character ; but that every man qualified to teach, might be set apart for that office by the election of the brethren, and by imposition of their hands ; in like manner, by their authority, he might be discharged from that function, and reduced to the rank of a private christian ; that every person, when admitted a member of the church, ought to make a public confession of his faith, and to give evidence of his being in a state of favour

* He was a man, it seems, of a good education, being brought up at Corpus Christi College, Cambridge. Tindal's Cont. of Rapin's Hist. Vol. 15, p. 278.

with God ; and that all the affairs of a church were to be regulated by the decision of the majority of its members.* As the tenets of this new sect wore a threatening aspect, not only to the established religion, but to the government itself, it began to be deemed necessary, that some more effectual checks than they had hitherto experienced, should be given to their progress. Some peculiar acts of sedition, blended with an extraordinary religious fanaticism, occurring about this time in the city of London, seem to have accelerated the interposition of the legislature. To this cause, among others, is attributed the statute of the 35 Eliz. ch. 1, made towards the latter end of her reign ;† by which it was enacted, “ If any person, refusing to repair to the established church,” (as was required by preceding statutes, viz. 1 Eliz. ch. 2, 23 Eliz. ch. 1, 29 Eliz. ch. 6,) “ shall, by printing or writing, advisedly or purposely, practice, or go about to move or persuade any one to deny, withstand, and impugn her majesty’s power and authority, in cases ecclesiastical, united and annexed to the imperial crown of this realm ; or to that end or purpose, shall advisedly and maliciously, move or persuade any other person whatsoever, to forbear or abstain from coming to church, according to her majesty’s laws and statutes aforesaid ; or to come to, or to be present at any unlawful assemblies, conventicles, or meetings, under colour or pretence of any exercise of religion ; or if any person, so refusing to repair to some estab-

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* Robertson’s Hist. of America, b. x.

† See note (N.) at the end of this volume.

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1593.

lished Church, as aforesaid, shall, either of himself or by the persuasion of any other, willingly join, or be present at any such conventicles, under pretence of religion, aforesaid ; every such person, so offending, and being thereof lawfully convicted, shall be imprisoned, without bail or mainprise, until they shall conform, and make such open submission and declaration of their said conformity, as hereafter in this act is declared and appointed." " Every such person, so not conforming himself, shall abjure and depart the realm ; and in case of refusing to abjure, or of not departing after abjuration, or of returning without license, he shall be guilty of felony, without benefit of clergy."

This blow, as was intended, affected both the Puritans and the Catholics ; but was, without doubt, more particularly pointed at the former. As Elizabeth, on her accession to the throne, was indebted to the English reformers for her support against the formidable opposition which she experienced from the Catholics, her principal attention had been hitherto directed to guard against the dangers of Popery. But the variety of seditious acts, which were now exhibited by those fanatics, who were for pushing the reformation to its utmost extent, gave her just cause to apprehend, that her sovereignty was in equal danger from Puritanism. The number also of these Puritans, had now increased so much, as in itself to be a sufficient cause of alarm to those who professed the established church. If we are to credit an assertion, said to have been made by Sir Walter Raleigh, in the house of commons, in the year 1592, (but one year prior to the

making this statute of 35 Eliz.) the Brownists, as they were then called, amounted to no less than twenty thousand, divided into several congregations in Norfolk, Essex, and about London.* As it was evident also, that nothing would content them, but a total abolition of the established religion, called the Church of England, not even indeed an unlimited indulgence in the exercise of their own, it was not to be wondered, that Elizabeth and her clergy should consider themselves as contending for their existence, and that these enemies of their power should feel the full force of their resentment. The persecution, if it may be so called, which these sectaries experienced, during the few remaining years of Elizabeth's reign, seems, therefore, to have been the necessary result of such a state of things.

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1593.

On the accession of James to the throne of England, both the Papists and the Puritans had conceived high hopes of some happy change, each in their own favour. The Papists could not believe, that a prince, who had never expressed any hatred to them, should suddenly alter his mind, and choose to tread in the steps of Elizabeth. The Puritans imagined, that James, having been educated in their religion, that is, the Presbyterian, and professed it all his life, till his arrival in England, would be propitious to them. They expected, that he would at least abate the rigour of the laws against them, if not reform many of the faults they had found in the Church of England. Both were deceived, but the last much more than the first. Of the Catholics,

1603.

State of
religious
parties in
England,
on the ac-
cession of
James I.

* See Tindal's Cont. of Rapin's Hist. Vol. 15, p. 278.

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1603.

James disliked only the Jesuits, and such as were too servilely attached to the court of Rome and the prerogative of the pope. But to the Puritans in general, he conceived a most violent hatred, especially as he thought that he discerned in them a strong inclination towards republicanism. As they were usually very familiar with their Maker, in their prayers to him, he was naturally induced to suppose, that they would take still greater liberties with him as their earthly sovereign. They both, however, presented their petitions to him. To the Catholics he answered, that he thought himself obliged to support what he found established in the kingdom. To the Puritans, he granted a pretended opportunity of justifying their principles before him, by appointing a conference to be held in his presence, of which he himself was to be moderator, between some of their principal ministers and elders* and some bishops and divines of the established church. The victory, as was to have been expected, being adjudged by him to the latter, the consequence was, that he ordered, by proclamation, the laws against non-conformists to be put in strict execution.

The court of "high commission for ecclesiastical affairs," a most odious tribunal, began now also to act against the Puritans with more severity and less control from the courts of common law, than they had done in the former reign. It was about this

* These ministers and elders, appear to have been of the Presbyterian class of Puritans, and not Brownists. Rapin's Hist. of England, (Tindal's edit.) Vol. 1, p. 18.

time, that archbishop Bancroft exhibited his celebrated *Articuli Cleri*,* in which he enumerates many grievances of the clergy, arising from the power exercised by the courts of common law in granting writs of prohibition to the proceedings of the ecclesiastical courts, and writs of *habeas corpus* for persons imprisoned by them; among which courts, that of the "high commission" was the most prominent. This tribunal had been originally instituted in the reign of Henry VIII, as a substitute for the former power of the pope, and had been revived under the statute of 1 Eliz. ch. 1, which defined *heresy*, and authorized the queen to appoint commissioners, to sit as judges thereof in this highest ecclesiastical court. But, throughout the whole of her reign its authority is said to have been exercised with great moderation;† which appears to have been principally owing to the control of the courts of law.‡ King James, however, being evidently prejudiced against the common law,§ and

* See them at large in Coke's 2 Inst. p. 601.

† Rapin's Hist. of England, (Tindal's edit.) Vol. 8, p. 78.

‡ Lord Coke affirms, (4 Inst. 332,) that although there might have been many instances, in the reign of queen Elizabeth, wherein the high commission court exercised the power of fine and imprisonment, especially against the weaker sort, yet, as often as complaint had been made, the highest courts of common law always relieved them according to law and justice.

§ It is said, that he had dropped expressions of his intention to establish the *civil* law in the room of the *common* law, Rapin's Hist. (Tindal's edit.) Vol. 8, p. 77, 79. It is no small eulogium on the common law, that the advocates for arbitrary

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having a high opinion of his own talents as a theologian, abetted and supported the bishops in the extent of their claims to an uncontrolled jurisdiction over all matters of heresy and religion.* The Puritans, therefore, now became liable to be harassed not only with fines and imprisonment, by the common law courts, for non-conformity, but to have their religious tenets examined by this high commission court, according to the test of heresy prescribed by the statute.† The rigorous penalties of

power, whether it is to be exercised by a mob or a king, have an invincible antipathy to this system of jurisprudence. The great securities for personal liberty and private property, which it upholds, are sad stumbling blocks in their way.

* For further information with respect to this curious contest, which took place about this time, between the spiritual and temporal courts in England, see the several notes of cases on that subject in Lord Coke's 12th Rep. Also his 2 Inst. 601, and 4 Inst. 330. However censurable Coke's conduct was, in many instances, while he was attorney-general, particularly on the trial of Sir Walter Raleigh, yet the noble stand which he made, when he became chief justice, against not only the arbitrary power assumed by the "high commission" and other ecclesiastical courts, but even against the lawless exertion of prerogative by the king himself, does him infinite honour. This independent conduct, however, in a few years, eventuated in the loss of his place of chief justice.

† The statute of 1 Eliz. ch. 1, defines heresy to be, "only such matter or cause as heretofore have been determined to be heresie, by the authority of the *canonical scriptures*, or by any general council wherein the same was declared heresie by the express and plain words of the said *canonical scriptures*." As the almost innumerable variety of sects of the Christian religion unquestionably arises from their various modes of construing these "canonical scriptures," we are unavoidably led to join Mr. Justice Blackstone in his remark on

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abjuration of the realm, or death as a felon, in certain cases, under the before-mentioned statute of 35 Eliz. also hung over their heads. But it will surprise the reader at this day, after reading these severe denunciations against the Puritans, unjustifiable indeed, upon any other principle than self-preservation, and after a minute search through the pages of the best historians of those times, when he finds considerable difficulty in discovering one solitary instance, where a Puritan was either burnt as a heretic or hung as a felon, merely for his religion. The instances of Udal and Penry, mentioned by Hume,* were cases of *sedition libels*, punishable with death under an abominable statute of 23 Eliz. They were instances of the arbitrary exertion of prerogative in the execution of a most tyrannical law against a *political* crime. The two Flemish Anabaptists, burnt as heretics, in her reign, had no connexion with those species of Puritans denominated Brownists, who are the subjects of our present inquiry; especially, as these Brownists, or their successors in New England, subsequently considered Anabaptists in the same point of view: and the two Arians, who suffered at the stake for heresy, in the reign of James, were alike unconnected with the Brownists. Denying the divinity of Christ, or at least his consubstantiation with the Father, it is not probable, that

this definition—"that it would not have been the worse, to have defined it in terms still more precise and particular; as a man continued still liable to be burnt, for what perhaps he did not understand to be heresy, till the judge so informed him."

* See his Appendix to queen Elizabeth's reign.

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such orthodox Christians as the Brownists would have treated them with greater leniency, had it been in their power. In corroboration of this, the remarks of Hume, upon the same subject, may with propriety, be quoted: "Had the king," says he,* "been disposed to grant the Puritans a full toleration for a separate exercise of their religion, it is certain, from the spirit of the times, that this sect itself would have despised and hated him for it, and would have reproached him with lukewarmness and indifference in the cause of religion. They maintained that they themselves were the only pure church; that their principles and practices ought to be established by law; and *that no others ought to be tolerated*. It may be questioned, therefore, whether the administration, at this time, could with propriety deserve the appellation of persecutors, with regard to the Puritans."

Suffering, as they certainly did, during the reigns both of Elizabeth and James, by fines and imprisonment, for their non-attendance at the established Church, and now liable to be treated as heretics, by the high commission court, or compelled to abjure the realm, under the penalties of the statute before-mentioned, the only alternative left for them seemed to be conformity or a voluntary exile. From the small proportion which the number of those who subsequently emigrated to Holland, bore to the whole of their society, at that time in the kingdom, we may infer that an exterior conformity was adopted by a very large majority of them. Perhaps, con-

* See his Appendix to the reign of James I.

ciliatory methods, blended with compulsion, might also have been practised towards them; for we find that some of them were not proof against either temptation or persecution. Their founder and leader, Brown, either frightened by the terrors of the law, or allured by the comforts of a good living, which, it seems, he afterwards accepted, surrendered the glory of heading a religious party, for a snug benefice in the established Church. Others; however, stuck to their tenets with a more consistent obstinacy. From their own account of themselves, as handed down to us by the successors of their sect in America, they must have existed in considerable numbers, about this time, in the north of England, particularly in Nottinghamshire, Lancashire, and Yorkshire. They had there, it seems, formed themselves into two distinct bodies or churches. Over one of them Mr. John Smith presided as pastor; over the other Mr. John Robinson.*

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* In the Extracts from the Plymouth Records, published in Hazard's Collections, Vol. 1, p. 350, are the following passages on this subject: "These people became two distinct bodyes, or churches, in regard of distance of place, and did congregate severally, for they were of several townes and villages; some in Nottinghamsheire, some in Lankisheire, and some in Yorksheire, where they bordered nearest together. In the one of these churches, besides others of note, was Mr. John Smith, a man of able giftes, and a good preacher, whoe afterwards was chosen their pastour; but these afterwards falling into some errors in the Low Countreyes, there, for the most part, buried themselves and their names.

"But in this other church, which must be the subject of our discourse, besides other worthy men, was Mr. Richard Clifton, a grave and reverend preacher, whoe by his paines and diligence, had done much good, and under God had bin

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1607.

The inde-
pendents
emigrate
to Hol-
land.

Preferring a voluntary banishment from their native country to a conformity to the discipline of the established Church, Robinson and a few of his followers stole away by degrees, (for it seems they were not permitted openly to leave the kingdom,*) to Amsterdam, as the states of Holland, after their independence, affected to allow a general toleration to all sects of religion. They had not lived at Amsterdam more than a year, before ambition, through which even angels are said to have fallen, set these "holy brethren and exiled saints" by the ears.† After Robinson and his flock had been there some time, they were followed, it seems, by another company from England, under the guidance of the before-mentioned John Smith. As these congregations were not only distinct, but *independent*

a meanes of the conversion of many; and alsoe that famous and worthy man, Mr. John Robinson, whoe afterwards was their pastour for many years, until the Lord tooke him away by death; and alsoe Mr. William Brewster, a reverend man, afterwards was chosen an elder of the church, and lived with them untill old age and death."

Their dispersed situation, herein described, together with their danger in convening in large bodies, most probably first suggested that form of hierarchy which they afterwards adopted, to wit, that each *congregation* should be a distinct, *independent* church of itself.

* This prohibition appears to have been, to emigration in large companies, which was frequently attempted. See Extracts from the Plymouth Records, in Hazard's Collections, Vol. 1, p. 351, and Rapin's Hist. of England, (Tindal's ed.) Vol. 8, p. 72.

† See the highly-wrought characters of "Tribulation, the pastor, and Ananias, the deacon, in Ben Jonson's Alchymist. written about this time.

of each other, their pastors also claimed equal and distinct supremacy over their several and respective flocks. No subordination in their ecclesiastical government being acknowledged, these pastors, like little monarchs of two little neighbouring kingdoms, jealous of each others power, soon found cause of quarrel. Whatever this cause was, it eventuated, it seems, either through the superior prowess of Smith, or the more humble meekness of Robinson, in the removal of the latter and his followers to Leyden.*

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1607.

During the residence of these people, both at Amsterdam and Leyden, it appears that they must have undergone considerable hardships. This, indeed, was naturally to have been expected. They were, most of them, poor country people, out of the north of England, raw and simple in their manners, and uninformed in their minds: fit subjects, indeed, for religious imposture. Many of them, perhaps, had been inured in their own country to the acquirement of their daily bread by personal labour, but they were now transplanted into another nation populous in the extreme, and with whom, consequently, the means of livelihood, even by labour, were more difficult to be attained. Added to this, they were unacquainted with the language, and ignorant of the manners and customs of the people, with whom they now dwelt. There is nothing extraordinary then, that the leaders of this little band of enthusiasts soon had cause to complain, "that many

1609.

Their distressing situation there.

* Extracts last-cited, in Hazard's Collections, Vol. 1, p. 354, and Hutchinson's Hist. of Massachusetts, Appendix, No. I, at the end of Vol. 2.

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1609.

They form
the design
of remo-
ving to
America.

of their children were drawn away and departed from their parents; some became soldiers, others took upon them for voyages by sea, and others worse courses, to the great grief of their parents and dishonour of God.* “They had just apprehensions, therefore, that their little community would soon become absorbed and lost in a foreign nation.”† The celebrity which commonly attaches to the name of a founder of a religious sect, was in great danger of being forever covered in obscurity. If, perchance, some historian of the country in which they dwelt, should deign to mention their fortunes or their sufferings, it would be only with the sentiment of pity and compassion, the most galling circumstance to an ambitious mind. The glory, or if it is insisted upon, “the natural and pious desire of perpetuating a church which they believed to be constituted after the simple and pure model of the primitive church of Christ, and a commendable zeal to propagate the gospel in the regions of the new world,” induced them to think of a removal to America.‡ But to what part of that grand continent, whether to the southern or northern region of it, was not at first determined by them. Sir Walter Raleigh had raised the fame of Guiana, about this time, and it is probable, that they had heard of the successful progress of the English in colonising Virginia. The former was represented as “rich, fruitfull, and

* Extracts from the Plymouth Records, in Hazard’s Collections, Vol. 1, p. 357-8.

† Holmes’s Annals, Vol. 1, p. 197.

‡ *Ibid.* and see note (O) at the end of this volume.

blessed with perpetual spring; where vigorous Nature brought forth all things in abundance and plenty, without any great labour or act of man;" but to this was opposed the unhealthiness of the country, and the propinquity of the Spaniards. Virginia was next thought of; and to this it was objected, "that if they lived amongst the English there planted, or so near them as to be under their government, they should be in as great danger to be troubled and persecuted for their cause of religion, as if they lived in England, and it might be worse; and if they lived too far off, they should have neither succour nor defence from them. At length, the conclusion was, to live in a distinct body by themselves, under the general government of Virginia."*

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VIII.

1609.

Having formed this resolution, they delegated (in the year 1617) two of their society, Robert Cushman and John Carver, to go England, in order to negotiate with the Virginia Company for their sanction in this proposed settlement, as also to ascertain whether the king would grant them liberty of conscience in that distant country. These agents found the Virginia Company very desirous of the projected settlement in their American territory, and willing to grant them a patent with as ample privileges as they had power to convey. They found also friends to intercede with the king for

1617.

Negotiate
with the
Virginia
Company,
for that
purpose.

* Extracts from the Plymouth Records, in Hazard's Collections, Vol. 1, p. 360. "The general government of Virginia," here meant, was that which took place under the second and third charters of Virginia before-mentioned.

SECT.
VIII.

1617. them, particularly Sir Robert Naunton, who was then one of the secretaries of state.* When Sir Robert urged to the king, that it was bad policy to unpeople his own kingdoms for the benefit of his neighbours, and that he could have no objection to grant them religious liberty in America, where they would still continue to be his subjects, and where they might extend his dominions, his majesty's answer is said to have been, that it was "a good and honest proposal;" but he positively refused to allow or tolerate them by his public authority under his seal, though he promised, that he would connive at them, and not molest them.† Their friends in England, notwithstanding this refusal, advised them to pursue their scheme of settlement, and gave it as their opinion that they would not be troubled.

1618. With this answer, the agents returned to Holland in the year following; but the king's refusal damped the ardour of their religious brethren, for a removal for some time. Debating upon the subject among

* He was appointed to this office on the death of secretary Winwood, in October, 1617, together with Sir George Calvert, who afterwards projected the colonisation of Maryland. See Rapin's Hist. (Tindal's edit.) Vol. 8, p. 135. The appointment of these two gentlemen, of opposite characters, at the same time, may be reckoned among the singularities of king James. Sir George was an acknowledged Papist, and Sir Robert a Protestant, much inclined to favour the Puritans; which seems to confirm an observation of Hume, (Hist. of England, ch. 46,) that James seemed to make it a matter of conscience, to give trust and preferment almost indifferently, to his Catholic and Protestant subjects.

† Mod. Univ. Hist. Vol. 39, p. 271. Extracts from the Plymouth Records, in Hazard's Collections, Vol. 1, p. 361.

themselves, it seemed to be at last, the opinion of a majority of them, that they might safely proceed without an express licence of the king. Reasoning very justly on the king's character, they concluded, that if there was no security in the promise intimated, there would not be much greater certainty in a written confirmation of it: for if afterwards, there should be a purpose or desire to wrong them, though they had a seal as broad as the house-floor, (as the writer expresses it,) it would not serve the turn, as there would be means enough found to recal or reverse it. Wherefore, they resolved to despatch messengers again, to conclude a contract with the Virginia Company, and to procure a patent with as good and ample conditions as they could; as also to treat and agree with such merchants and other friends, as had manifested a disposition to hazard some capital in the adventure of such a voyage.

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VIII.

1618.

Their agents arriving again in England, in the succeeding year, (1619,) found the council and Company of Virginia* so disturbed with factions and quarrels among themselves, as that no business of any importance could be transacted with them. These dissensions appear to have been founded on very frivolous grounds, if we are to believe the statement of them given by Robert Cushman, one

1619.
Dissensions in
the Virginia com-
pany occasioned
delay

* This council and Company of Virginia, was composed of persons acting under the third charter of the South Virginia or First Colony, sometimes called the London Company. The North Virginia, or Plymouth Company, appear at this time to have relinquished all further attempts at making settlements.

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VIII.

1619.

of the agents for the Puritans.* It seems, that not long before the last agents had returned to England, Sir Thomas Smith, repining at his many offices and troubles, wished the Company of Virginia to ease him of his office in being treasurer and governour of the Virginia Company; whereupon the Company took occasion to dismiss him, and chose Sir Edwin Sands in his stead. But Sir Thomas, vexed it seems, at being so soon taken at his word, grew very angry, and raised a faction to cavil and contend about the election, and endeavoured to tax Sir Edwin with many things, that might not only disgrace him, but also either induce him to resign or disqualify him for the office.† What was the issue of these bickerings, Cushman does not state: but Sir Edwin continued in his office; and the affairs of the colony already planted in Virginia, seemed to have prospered unusually from his accession thereto.‡ From his letter to Mr. Robinson and Mr.

* See his letter dated May 8th, 1619, taken from the Plymouth Records, in Hazard's Collections, Vol. 1, p. 366, 368.

† It may, perhaps, not be unnecessary to mention, that this Sir Thomas was not the learned Sir Thomas Smith, who was so celebrated in the reign of queen Elizabeth. That gentleman died in August, 1577. See Rapin's Hist. (Tindal's edit.) Vol. 7, p. 404. This was probably some eminent merchant of London, and a city-knight. He was appointed treasurer of the Virginia Company by the king, in the body of the second Charter of Virginia, of May 23, 1609; though provision was made by that charter, that such treasurer should afterwards be elected by a majority of the Company, and the third charter seems to have confirmed that privilege.

‡ Sir Edwin Sands (or Sandys,) is represented by Hume, (Hist. of England, note [DD] to chap. 45,) as "a man of the

Brewster, of November 12th, 1617, he appears to have been friendly to their proposal of removing to America. It is couched in those polite and obliging terms, which the chief officer of such a company, who possessed liberal and generous sentiments, would have written.*

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VIII.

1619.

The extraordinary ill-treatment of a certain captain Blackwell, towards some passengers of his ship, whom he carried about this time, as colonists to the settlement on James' river, in Virginia, operated much in the discouragement of the intended removal of the Puritans.† However, a patent being at length obtained from the Virginia Company, it was carried to Leyden for the consideration of the people there, with several proposals from English merchants and friends, for their transportation. By the advice of some friends, it seems, this patent was not taken in the name of any of the society at Ley-

greatest parts and knowledge in England," at this time next to Sir Francis Bacon. It was, on Sir Edwin's suggestion, after he was at the head of the Company as treasurer, that a freight of young women was sent over, in the 1620, to the planters of Virginia, to be bought by them as wives, they being mostly destitute of families. The scheme succeeded so well, that it was repeated. It was probably also owing to him, that the commerce with the colony in Virginia, which had hitherto been monopolized by the treasurer and company, to the great depression of the colony as it was said, was in the same year laid open to all without restriction. See Holmes's Annals, Vol. 1, p. 204, 206.

* See this letter and their answer in Hazard's Collections, Vol. 1, p. 362.

† See Cushman's letter, in Hazard's Collections, Vol. 1, p. 362.

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VIII.

1620.

Embark
for Ame-
rica, and
settle in
Plymouth,
Massa-
chusetts.

den, but in the name of a certain John Wincob, or Wincoll, who was a servant in the family of the Countess of Lincoln.

After mature deliberation, it was at last agreed, among the Puritans at Leyden, that a part of their congregation should go to America, in order to make preparation for the rest; and therefore, such as chose to become the first adventurers were requested to fit and prepare themselves for the voyage. Several of the congregation sold their estates, and made a common bank; which, together with money received from other adventurers, enabled them to purchase a small vessel of sixty tons, and to hire in England another of one hundred and eighty tons, for their intended enterprise. In this smaller vessel, the first adventurers embarked at or near Leyden, for Southampton, where most of them were to re-embark on board the larger ship, called the *May-flower*. They were under the conduct and direction of William Brewster, the ruling elder of their church; for Robinson did not accompany them.* After their arrival at Southampton, their

* Mr. Robinson's caution, in evading the accompaniment of his flock to America, seems to afford some grounds to suspect that his "Catholicism," (though praised by Mr. Holmes in his note V, before-cited, partook somewhat of that of his prototype, Robert Brown. This seems to be confirmed by what Mr. Holmes, in the same note observes, that "at first indeed, he favoured the rigid separation from the Church of England; but, after his removal to Holland, *he was convinced of his mistake, and became ever after, more moderate in his sentiments respecting separation.*" And further, by what is said in Hutchinson's Hist. of Massachusetts, Appendix No. I, to Vol. 2: "He was at first a thorough separatist, and Mr. Hubbard

small ship being deemed unfit for sea, they were obliged all to embark on board the *May-flower*, in which they finally left England on the sixth of September, 1620. After a boisterous passage, they discovered on the ninth of November, the land of Cape Cod. Perceiving that they had been carried to the northward of the place of their destination, they stood to the southward, intending to find some place near Hudson's river for settlement. Falling, however, among shoals, they were induced, from this incident, together with the consideration of the advanced season of the year, and the weakness of their condition, to relinquish that part of their original design. The master of the ship, influenced by the fears of the passengers, and their extreme solicitude to be set on shore, shifted his course to the northward. The real cause of his doing which has been alleged to have been, a reward clandestinely promised to him in Holland, if he would not carry the English to Hudson's river.* Be that as

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says, was transported with their principles so far as to publish his opinions against hearing any of the preachers of the Church of England, were they never so learned and pious, but *afterwards acknowledged his error in a judicious and Godly discourse.*" Although the American republic is indebted to these "mistakes" and "errors" for those populous and flourishing states, denominated New-England, yet, as Mr. Robinson evidently had no such sublime ideas in contemplation, and, if he had, the end would not sanctify the means, these "mistakes" and "errors" seem to form a lesson to ambitious religionists, to be cautious in leading simple and ignorant country people into situations, wherein they must necessarily endure inexpressible hardships and misery.

* Although it is alleged by Morton, (New England Me-

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it may, steering again for the Cape, the ship was clear of the danger before night; and the next day, a storm coming on, they dropped anchor in Cape Cod harbour, where they were secure from winds and shoals.

Finding the harbour to be in the forty-second degree of north latitude, and therefore beyond the territory of the South Virginia Company, they perceived that their charter, received from that company, was here useless.* The consequence of this inutility of their charter, was, that they were destitute of the powers usually held necessary to institute a government. The danger of this situation was strongly enforced upon the minds of the more

morial 13,) that, "Of this plot, betwixt the Dutch and Mr. Jones, I have had late and certain intelligence." To which Mr. Holmes, in his *Annals*, (Vol. 1; p. 199,) appears to give entire credit: yet, as it is stated by Hutchinson, (*Hist. of Massachusetts*, Vol. 1, p. 11,) that "the Dutch laboured to persuade them (the English at Leyden,) to go to Hudson's river, and settle under their West India Company;" the fact is stated as above with some hesitation. It is possible, however, that as these adventurers preferred being under the government and protection of the English, and their designed place of settlement was near Hudson's river, but to be considered as a part of the government of Virginia, the Dutch might be averse to having them as neighbours in that way, and for that reason bribed the captain to carry them farther from their settlement at New York. See the Appendix No. 1, to Hutchinson's *Hist.* Vol. 2.

* This seems to be a better and stronger reason, why they never made any subsequent use of their charter from the South Virginia Company, than that which has been usually assigned by historians; that is, because Wincob, the patentee, never went to New England.

prudent part of them, by some symptoms of faction and disorganisation exhibited during the passage among the inferior class of them, who were heard to mutter, that when they should get on shore, one man would be as good as another, and they would do what they pleased. It was, therefore, judged expedient, that before disembarkation, they should combine themselves into a body politic, to be governed by the majority. A written instrument, drawn for that purpose, was accordingly subscribed on board the ship, on the eleventh day of November, by forty-one of their number, who are supposed to have been all the males of age in the company, which amounted to one hundred and one persons.* John Carver was then unanimously chosen their governour, for one year. The principal intention of this written instrument of express covenant, is said to have been "of a mere moral nature, that they might remove all scruples of inflicting necessary punishments, even capital ones, seeing all had voluntarily subjected themselves to them." It does not appear, however, notwithstanding the expediency of this express compact, that the leaders of these colonists considered themselves so entirely brought back to a state of nature, and so totally emancipated from all former obligations, as to acknowledge no superior political power, and to be independent of all other governments. Although the most of them had been residents for some time

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1620.

* See this instrument in Hutchinson's Hist. of Massachusetts, Vol. 2, Appendix No. 1, and in Hazard's Collections, Vol. 1, p. 119.

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1620.

in Holland, and therefore, in modern construction, were now *expatriated* from their native country; yet they seem to have considered themselves as English subjects, and entitled to all the benefits and privileges resulting from the common law of England, and such English statutes, as were applicable to their local situation. This indeed might possibly have been so deemed, as being the consequence of both their contract with the Virginia Company, and the permission of the king to settle in North America. They are said to have, therefore, “resolved to make the laws of England their rule of government, until they should agree upon laws suited to their peculiar circumstances.”*

Several of their principal men now went in their boat or shallop to search for a suitable place where they might fix their first settlement. After ranging for some days about the bay of Cape Cod, they entered a harbour, which after sounding they found to be fit for shipping, and after exploring the land adjacent to the harbour, they judged it a convenient situation for a settlement, and returned with the welcome intelligence to the ship. They proceeded with the ship to the newly discovered port, where they arrived on the sixteenth day of December, a very improper season of the year, indeed, for the commencement of a colonial settlement, in such a climate. But necessity seemed now to have left them no choice, and as soon as they could erect

* Hutchinson's History of Massachusetts, Volume 2d, Appendix, No. I.

habitations to receive their company, they were landed. The place, it seems, was called by the natives Patuxet, but is now well known by the name of Plymouth, in the state of Massachusetts. From this small beginning, time has at length produced those now populous states, which lie to the northward of New York. It is unnecessary for us to pursue their history any farther in this place.

SECTION IX.

Causes of the severe statutes against Roman Catholics in England, during the reign of Elizabeth—Their conduct on the accession of James I—The cause of additional statutes against them—The successes of the Catholics and Puritans give rise to political parties—First scheme of a colony of English Catholics in Newfoundland, under the patronage of Sir George Calvert—Sir George Calvert created lord Baltimore, visits Virginia, with further views of colonisation—The conduct of the Virginians towards him—Differences among the Catholics with respect to the oaths of allegiance and supremacy—Lord Baltimore forms the scheme of settling a colony in Maryland—Settlement of a colony of Swedes on the Delaware—The Virginians oppose the lord Baltimore's scheme—William Claybourne's claim—Lord Baltimore returns to England, and relinquishes his views of a settlement on Newfoundland—Obtains the promise of a grant of the province of Maryland, which is given on his death to his son Cecilius.

WHILE the Puritans had thus sought an asylum in America, from the rigour of those laws which the government of England, in the reigns of Elizabeth and James, had thought proper to be enacted against non-conformists to their established Church, the Papists, who were equally obnoxious to the majority of the nation, had now begun also, from similar motives, to look about for a place of refuge. But it will be proper to examine a little into the precedent causes, which brought them into this situation.

SECT.
IX.

It must be acknowledged by every candid Catholic, at this day, that the church of Rome, from the third century to the French revolution, having considered itself as the only true Christian church,

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has uniformly held that all persons who ventured to promulgate and maintain religious doctrines contrary to those which the ancient church are supposed to have received from Jesus Christ, were to be deemed heretics, liable, upon the principles of Christianity, to the punishment of death. Intolerance, therefore, with respect to other sects of the Christian religion, seems to have been a principle necessarily inherent in the papal hierarchy. Those who professed this system of religion, seem to have been bound by the obligation of their religious profession, to apply the strong arm of persecution, in order to correct any presumptuous aberration from the doctrines of their church. It appears, therefore, that the reformers in general entertained irrational expectations, when they demanded a toleration of their opinions. It was, without doubt, under these impressions, that the English reformers, especially in the reign of Elizabeth, renounced such expectations, as visionary hopes. The cruel persecutions also, which they experienced during the reign of Mary, taught them what they were to expect, should the Papists retain their power in that nation. There were, moreover, certain principles maintained by the Papists on the continent of Europe, at the period of time of which we are now treating, which were totally inconsistent with any thing like good government. That the pope had a power of excommunicating kings who refused to obey his directions, and that thereupon all subjects of such king so excommunicated, were absolved from their allegiance to him; and besides, that any of the subjects of such king might privately assas-

sinate him, and for such deed not only obtain the pardon and blessing of his holiness, but thereby merit an everlasting crown of glory in heaven; and moreover, that it was lawful to put heretics to death by private assassination, without the formality of legal trial and public execution; that these were political as well as religious tenets, held by the greater number of the zealous Roman Catholics until the latter end of the seventeenth century, cannot possibly be denied.* The horrid massacre of the French Protestants on St. Bartholomew's day, in the year 1572, and the assassinations of two kings of France, Henry III and IV, and that of the prince of Orange were all in the sixteenth century, avowedly justified on these principles.† Much

* See note (P) at the end of the volume.

† The assassins of the two kings of France were evidently instigated thereto more by their religious tenets than the political principle of tyrannicide. Sermons were preached, and books were written, to prove that, these princes being heretics, and excommunicated by the pope, it was meritorious, even in individuals, to remove them. Nor do these tenets appear to have been peculiar only to the Jesuits. John Clement, who assassinated Henry III, was a jacobin monk, of the order of *Dominicans*. The whole convent knew his design, before he went on the execution of it, and approved it; and pope Sixtus, Vth, of hypocritical notoriety, was not ashamed, in a full consistory, to magnify the holy zeal of this bloody villain, and to extol his courage and piety beyond that of Judith. The reward set on the head of William, prince of Orange, (the Washington of the states of Holland,) by Philip II, of Spain, was, perhaps, the real motive of both the assassins who attempted his life; but the first of them, who only wounded him, had confessed his intention to a *Dominican* priest, and received from him absolution, and a promise

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cause, therefore, had the people of England to apprehend danger in the enjoyment of their civil and religious liberties, had the crown of that kingdom descended, on the death of Mary, to any other claimant than Elizabeth. Hence, therefore, the severe laws which were enacted against Papists during the reign of that princess, were naturally to have been expected. Not that the free enjoyment of religious opinions is not a natural right, inherent in every individual member of society, but if political opinions are so mingled with religion, as to affect the just as well as necessary administration of the government, without the preservation of which mankind cannot well, or at least happily exist, and those who profess such opinions are constantly endeavouring to put them into action and practice, through the medium of religion, reason and common sense dictate the necessity of suppressing the exercise of even such ostensible rights, by such laws as shall be adequate to the purpose.* Whe-

of eternal reward. The massacre of St. Bartholomew's was done by the orders of the king, (Charles IX) who openly avowed it, and was complimented upon it by the parliament of Paris; and pope Gregory, XIII, went in a procession on foot, to a church in Rome, to give public thanks on the news thereof, and ordered a jubilee over all Europe to be observed, in consideration of that great blow given to the heretics. See *Bayle's Hist. Dict. art. Boucher, Chastel, Guignard, Hen. III, and Sanctesius.* Also, the *Mod. Univ. Hist.* Vol. 24, p. 271, 328, 354, 361, 435.—Vol. 26, p. 368, 398.—Vol. 31, p. 91.

* Voltaire well observes upon the dispute between the Gallican church and the pope, in the seventeenth century, before-mentioned, "that it was the cause of the people, whose repose requires, that their sovereign be independent of any foreign power." *Age of Louis XIV*, ch. 31.

ther the several statutes enacted against popish recusants, during the reigns of Elizabeth and James, transcended these ends and purposes, and were unnecessarily severe, is quite a different question from that which involves the position just mentioned.

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IX.

1558.

1558.

Causes of the severe statutes against Roman Catholics, in England, during the reign of Elizabeth.

In confirmation of these observations, one of the first incidents which occurred on the accession of Elizabeth to the throne, before any parliament had sat, or statutes been enacted, deserves notice.—Edward Carne, the English ambassador, at Rome, had orders to notify to the pope, (Paul IV,) Mary's death and Elizabeth's accession to the crown. This haughty high priest, whose bigotry of mind and austerity of temper appear to have increased in his extreme old age, replied to the ambassador, "That it was great boldness in her to assume the crown without his consent; that England was a fief of the holy see; that being illegitimate, she could not possibly inherit that kingdom; that she deserved no favour at his hands; but if she would renounce her pretensions, and refer herself wholly to him, he would show a fatherly affection for her."* In these more enlightened days, no person can understand this in any other sense, than an assumption of power by a high priest of a particular sect of Christians,

* Rapin's Hist. of England, (Tindal's edit.) Vol. 7, p. 183. Hume's Hist. ch. 38. This pope refused, but a few months before this, nearly upon the same principles, to confirm the election of Ferdinand I, of Austria, as emperor of Germany, on the resignation of Charles V, "contending that the pope, as the vicergerent of Christ, was entrusted with the keys both of celestial and terrestrial government; and that from him the imperial jurisdiction was derived." Robertson's History of Charles V, b. 12.

SECT. IX. to dispose of the civil government, and with it, the
 IX. people of an independent nation.

1553. The barbarous association entered into, in a few years afterwards, between the courts of France and Spain, at their celebrated interview at Bayonne, in the year 1565, for a total extermination of the Protestants by fire and sword, (of which the massacre of St. Bartholomew's, before-mentioned, was, without a doubt, a consequence,) affords strong indication of the principles of the Catholics at this era of time: which association seems to be too well authenticated in history, to admit of doubt.*

1559. As a further proof of the improper intermixture of religion and politics, by the Catholics of these times, may be mentioned the bull of excommunication, issued by pope Pius V, against Elizabeth, bearing date February 25, 1569, wherein, after declaring, "that, as successor of St. Peter, he was constituted by Him that reigneth on high, over all nations and all kingdoms, that he might pluck up, destroy, dissipate, ruinate, plant, and build," he proceeds thus: "We deprive her of her pretended right to the kingdom, and of all dominion, dignity, and privilege whatsoever; and absolve all the nobles, subjects, and people of the kingdom, and whoever also have sworn to her, from their oath and all duty whatsoever, in regard of dominion, fidelity, and obedience."† It was evident, from the concurrent events of the times, that this bull was intended

* Rapin's Hist. (Tindal's edit.) Vol. 7, p. 261. Hume's Hist. ch. 39.

† Woodeson's Lect. Vol. 2, p. 535.

to foment plots and insurrections against her, and particularly to forward a rebellion of her subjects, which was at that time in agitation in the north of England. In pursuance of these objects, one John Felton had the hardihood to affix the bull to the gates of the bishop of London's house ; and scorning either to fly or to deny the fact, he was arrested, tried, condemned, and hanged : and thereby obtained the empty repute of a glorious martyrdom.*

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1569.

Not content with these means of dethroning the queen, and thereby restoring themselves to their former ascendancy in the state, the Catholics had recourse to the inhuman scheme, of causing her to be assassinated. One William Parry, an English Catholic gentleman, had received the queen's pardon, for a crime, by which he was exposed to capital punishment ; and having obtained permission to travel, he retired to Milan, and made open profession of his religion, which he had concealed while he remained in England. He was here persuaded by a Jesuit, that he could not perform a more meritorious action, than to take away the life of his sovereign and his benefactress. The pope's nuncio at Milan, when consulted by him, approved extremely of this pious undertaking ; and Parry, though still agitated with doubts, went to Paris, with an intention of passing over to England, and executing his bloody purpose. He was here also encouraged in the design by one Thomas Morgan, an English Catholic refugee, then residing in France,

1585.

* Hume's Hist. ch. 40. Rapin's Hist. (Tindal's edit.) Vol. 7, p. 350.

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IX.

1585.

of great credit in the party ; and though some other Catholic priests told him that the enterprise was criminal and impious, yet having received the further encouragement of the pope's nuncio at Paris, he determined to persist in his resolution. Before he left Paris, he wrote a letter to the pope on the subject ; in which he communicated his intention to the holy father, and craved his absolution and paternal benediction. This letter being conveyed to the pope, through the cardinal Como, he received an answer from the cardinal ; by which, he found that his purpose was extremely applauded, and he went over to England, with a full design of carrying it into execution. But, as Hume on this occasion justly observes, " so deeply are the sentiments of morality engraved in the human breast, that it is difficult even for the prejudices of false religion, totally to efface them." This bigotted assassin resolved, before he came to extremities, to try every other expedient for alleviating the persecutions under which the Catholics at that time laboured. He found means of being introduced to the queen : assured her that many conspiracies were formed against her ; and exhorted her, as she tendered her life, to give the Romanists some more indulgence in the exercise of their religion. But, lest he should be tempted by the opportunity, to assassinate her, he always came to court unprovided with every offensive weapon. He even found means to be elected a member of parliament ; and having made a vehement harangue against the severe laws enacted against the Catholics, was committed to custody. This circumstance, together with that of

his perusal of a book, then lately written and published by a doctor William Allen, afterwards a cardinal, wherein it was attempted to be maintained, that it was not only lawful, but honourable, to kill princes excommunicated, confirmed him in his former resolution.* Having obtained his liberty, he communicated his intention to a person of the name and ancient family of the Nevils, who at first entered zealously into the design, and was determined to have a share in the merits of its execution. But Nevil, becoming in the mean-time, next heir to the title of the earl of Westmoreland, which had been forfeited by the last earl, he conceived hopes, that by doing some acceptable service to the queen, he might recover the estate and honours. He therefore, betrayed the whole conspiracy to the ministers; and Parry, being thrown into prison, con-

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1585.

* This cardinal Allen was originally an English Catholic, bred at the university of Oxford, but shortly after Elizabeth's accession to the throne, and the restoration of the reformed religion, he retired from England, and had the principal hand in founding the English Catholic college at Donay, on the borders of France and Flanders, in the year 1568, where probably he wrote his above-mentioned mischievous book. It was from here, as well as from similar institutions at St. Omer's and Leige, that the Catholics in England were supplied with priests during the reigns of Elizabeth and James. He was made a cardinal by pope Sixtus V, about the time of the famous invasion of England by the Spanish armada, in 1558, at the particular request of Philip II, to whom this pope had given the investiture of England, after having excommunicated Elizabeth, and deprived her as far as he could, of her right to the kingdom. See Rapin's Hist. (Tindal's edit.) Vol. 7, p. 415, and the Mod. Univ. Hist. Vol. 25, p. 388.

SECT. IX. fessed the guilt, both to them and to the jury who tried him. The letter from cardinal Como, being produced in court, put the encouragement he had received both from the pope and the cardinal, beyond all question.*

1583.

These incidents are here mentioned, only as a few of the most prominent proofs, with which the historians of those times abound, of the improper conduct of the English Catholics in the reign of Elizabeth; which, if not a complete justification, yet greatly palliates the injustice, if any, in enacting those rigorous statutes against popery, which took place in her reign, and which could not have been justified on any other principle.†

1603.

Their con-
diction
on the acces-
sion of
James I.

On the death of Elizabeth, and on the accession of James to the throne, the English Catholics, as before observed, had cherished ardent hopes, that he would restore them to their lost influence and power.

Disappointed in these expectations, and surprised and enraged, to find James on all occasions, express his intention of strictly executing the laws already enacted against them, and moreover actually giving his royal assent to further rigorous statutes against them,‡ a few of the most zealous among them began to revolve in their minds some means of liberating themselves from the persecution they experienced. In the fury of these sentiments, they meditated that horrible contrivance usually denominated

* Rapin's Hist. (Tindal's edit.) Vol. 7, p. 446. Hume's Hist. ch. 41.

† See note (Q) at the end of the volume.

‡ See the statutes of 1 Jac. I, ch. 4 and 25.

the Gunpowder Plot: "an event," as Hume observes, "one of the most memorable that history has conveyed to posterity, and containing at once a singular proof both of the strength and weakness of the human mind; its widest departure from morals, and most steady attachment to religious prejudices; a fact as certain, as it appears incredible." As this scheme consisted in blowing up by gunpowder, the two houses of parliament, while the king was delivering his speech to them from the throne, the excellence of it, as boasted of by them, was, that by a sort of retributive justice, it would destroy at one blow, the authors of their sufferings, and bury their principal enemies in one common ruin. "They flattered themselves with the vindictive pleasure of beholding those sacrilegious walls, in which were passed the edicts for proscribing their church, tossed into a thousand fragments." Their scheme, however, was discovered in a very extraordinary manner, within a few days prior to its intended execution, and consequently became abortive.

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The parliament met in safety, and notwithstanding the king's speech to them contained a softening apology for the Catholics, they proceeded to enact laws, not only for the attainder of such offenders in the late plot, as had made their escape out of the kingdom, but "for the better discovering and repressing of popish recusants," and "to prevent and avoid dangers" arising from such recusants.* By these statutes, additional disabilities, restraints, penalties and forfeitures, were imposed upon the Eng-

1605-6.
The causes of additional statutes against them.

* See the statutes of 3 Jac. 1. ch. 4 and 5.

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lish Catholics beyond what they had been before liable to. And thus, by an intemperate zeal and injudicious conduct, not comporting with any sound principles of morality, however consistent it might be with their religious tenets, they brought on themselves a greater degree of intolerance from the Protestants towards them, than they would otherwise have experienced.

It does not appear that any other statutes against Catholics were enacted during the remainder of James's reign. Those already mentioned, both of this and the preceding reigns, contained severities enough to keep them in all due subjection, had those laws been executed on all occasions with the utmost rigour. But it seems to have been one of the greatest anxieties of James's life, to exculpate himself in the eyes of the rest of Europe, from the charge of being a persecutor of the Catholics, though he heartily joined in the suppression of the Puritans. He accordingly, therefore, pardoned popish recusant convicts, or remitted their forfeitures, as often as the clamour of his Protestant subjects would permit him to do it with any seeming propriety. As the house of commons during his reign, was composed entirely of members professing to be of the established Protestant Church, among whom were many strongly tinctured with Puritanism, and as the administration of justice and the execution of the laws, would necessarily be intrusted to many zealous Protestants, it soon became impossible for the Catholics to live in the kingdom, and at the same time openly profess their religion. Whenever, therefore, any great incident occurred relative

to persons of that persuasion, the nation seemed to feel an uncommon alarm. The assassination of Henry IV, of France, which happened not long afterwards, had such an effect upon the English nation, that James, instigated in all probability not a little by a sense of his own personal danger, was under a necessity of issuing his proclamation, commanding all jesuits and priests to depart the kingdom, and that no recusants should come within ten miles of the court. This tragical event in France, so roused the antipathy of the Protestants to the Catholics, that the laws began now to be executed against them with increased rigour and severity. The king's absurd obstinacy, in persisting in his endeavours to marry his son Charles to a princess of the royal family of Spain, was another constant source of uneasiness to his Protestant subjects. They dreaded the consequences of such a union, to their party in England ; and as the increased influence and power of the house of commons, became obviously discernible towards the latter part of his reign, insomuch that larger strides towards that political liberty, which they afterwards, in Charles's reign, more boldly assumed, were for the first time manifested by that body, in a remonstrance to the king, on the then state of affairs. Jealous of the extraordinary propensity of James to favour the Catholics, they urged to him in a bolder tone than any house of commons had ever before used towards a sovereign of England, the dangers which they apprehended to the Protestant religion. Among the many *causes* of those great and growing mischiefs which they apprehended, they repre-

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1610.

1621.

SECT. IX. presented "the devilish positions and doctrines whereon
 1621. popery is built, and taught with authority to their
 followers, for advancement of their temporal ends.

"The expectation of the popish recusants of the match with Spain, and feeding themselves with great hopes of the consequences thereof.

"The interposing of foreign princes, and their agents, in the behalf of popish recusants, for connivance and favour unto them.

"Their forfeitures compounded for, at such mean rates, as amounted to less than a toleration.

"The licentious printing and dispersing of popish books, even in the time of parliament.

"The swarms of priests and jesuits, the common incendiaries of all Christendom, dispersed in all parts of the kingdom.

"And that the popish religion had such a restless spirit, that if it should once get but a connivance, it would press for a toleration: if that should be obtained, they must have an equality; from thence they would aspire to superiority, and will never rest till they get a subversion of the true religion."

Among a variety of other remedies for these evils, they pressed his majesty "to put in execution the laws for preventing of dangers by popish recusants."*

The excesses of the Catholics and Puritans, give rise to political parties. It is at this session of parliament, that historians have fixed the era of the rise of the two distinct political parties in England, which have subsisted even to this day, under different denominations. Those who opposed the absolute power, which the

* Rapin's Hist. (Tindal's edit.) Vol. 8, p. 191.

king now claimed, formed soon afterwards what was known by the name of the *country-party*, and received the powerful aid of the Puritans. The *court-party* were principally composed of the clergy of the established Church, those also who enjoyed offices under the crown, and the vast body of Catholics, which secretly lurked in the kingdom.* But as, happily for the English nation and their descendants in America, those who advocated the rights of the people, as exercised by their representatives in parliament, finally prevailed, so even, throughout the remainder of the reign of James, they found themselves able to maintain that firm position which they had now taken in support of their religious as well as civil and political liberties. For the reasons before suggested, it became necessary, in their estimation, that the English Catholics, who certainly were but a minor part of the nation, should yield up their religious rights, when the enjoyment of them became manifestly incompatible with those of a majority of the people. It was in this state of things, that parliament now pressed the execution of the laws heretofore made against them.

But James was too tenacious of what he deemed his prerogative, to give way so readily. Soon after he had prorogued and dissolved parliament, in order to please the king of Spain, and to promote the projected match between his son and the infanta, in defiance of the law, as well as the before-mentioned remonstrance of the commons, he issued writs to

* Rapin's Hist. (Tindal's edit.) Vol. 8, p. 182. Hume's Hist. note [LL] to ch. 48.

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the judges and justices of the peace, to release all the imprisoned recusants. Deeming himself head of the English Church, and thereby possessed of supreme ecclesiastical power, he wished to have it considered, that the toleration of Catholics was a measure of that nature. But not only the religious Puritans murmured at this proceeding of the king; the friends of civil liberty were alarmed at so important an exertion of prerogative: for it does not appear to have been definitively ascertained, at this period of time, whether the king had not a power of dispensing with penal statutes.* This last session of parliament, however, appears to have formed a crisis, from which the declension of the royal prerogative under the English constitution is manifestly visible. As the Catholics had, prior to this period, by the patronage of the king, gained such an evident ascendancy in their influence in the affairs of the nation, as to render the situation of the Puritans so uncomfortable, as to prompt them to emigration, so now the Puritans, in their turn, through the increased power and privileges of the house of commons; of which many of them, or at least many of those who inclined much to favour them, were members, began to be enabled to retort upon the Catholics, their own intolerant system. By their clamours for a vigorous execution of the

* Rapin says, that some stop was put to these dispensing mandates or writs of the king, by the advice of the lord keeper, Williams. Rapin's Hist. (Tindal's edit.) Vol. 8, p. 261. But this was subsequent to the period of time we are now speaking of, and at the time of the ratification of the Spanish treaty of marriage, in 1623.

laws against Papists, it became now necessary for them also to look about for a place of refuge. SECT.
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It was in this situation of things, that Sir George Calvert, who was still one of the principal secretaries of state, and an acknowledged Roman Catholic, influenced probably by the then recent previous example of the Puritans in New England, contemplated a settlement of Catholics in Newfoundland. Standing high in the favour of his sovereign, not only perhaps from his long services to him as secretary for many years, but from his late zealous exertions in promotion of the Spanish match, an event so ardently desired by all the Catholics, they naturally looked up to him as one of their ablest protectors.* He easily, therefore, obtained a grant

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First
scheme of
a colony
of English
Catholics,
in New-
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land, un-
der the
patronage
of Sir
George
Calvert.

* These exertions of Sir George do not appear to have been strictly honourable, if what is mentioned by Rapin be true. He is said to have been one of those whom count Gondemar, the Spanish ambassador, had bribed with presents and pensions, to cherish in the king this vain project of marrying his son to the infanta. It is said also, that the count extended his system of bribery, on this occasion, even to the very ladies about the court, of which we may be excused for mentioning a pleasant anecdote. It happened that he had neglected to bribe the lady Jacobs, who, upon his passing by her window in his chair, instead of answering his salutation as usual, only gaped with her mouth, which repeating again next day, he sent to know the reason; she replied, that "she had a mouth to stop as well as other ladies." In justice to Sir George, however, it ought to be observed, that being a zealous Roman Catholic, he might possibly have been active in promoting the matrimonial union between the crowns of England and Spain, not under the influence of a bribe, but through zeal in promoting the interests of his religion. See Rapin's Hist. (Tindal's edit.) Vol. 8, p. 167. There is a letter of Sir George Calvert to secretary Conway, about the Spa-

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from the king, of that part of the island of Newfoundland, which lies between the Bay of Bulls, on the east coast thereof, and Cape St. Mary's on the south, which was erected into a province, and called *Avalon*. This grant was, apparently, in direct repugnance to that previously made by the king, of the same tract of country, in the year 1610, as before-mentioned, to the earl of Northampton, and others. But, as the expedition under Mr. Guy, for a settlement thereof, had totally failed, and the patentees had, to all appearance, entirely relinquished their intention of making any further use of their patent, Sir George might, with propriety, accept the grant. He accordingly, therefore, prepared to execute the purposes and intention of his patent. Previous, however, to his own embarkation for the country granted to him, he thought it most proper for him to send a small colony thither, under the command of a captain Edward Wynne, as governor, who seated himself and colonists, at a place called Ferryland, a harbour on the east coast of Newfoundland, between Cape Race and the Bay of Bulls. Here he commenced a settlement, erected granaries and store-houses, and built the largest dwelling-house that had ever been seen on the island.

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In the following year, (1622,) he set up a salt-work, and had the encouragement, through the interest and means of the proprietor, of receiving a reinforcement to his colony, by the arrival of an addi-

nish match, among the Harleian MSS. in the British museum; but of the contents of it, we have not on this side of the Atlantic, a convenient opportunity of knowing.

tional number of colonists and fresh supplies of stores and provisions. Exaggerated accounts of the fertility of the soil, and pleasantness of the country, being transmitted to Sir George,* he is said to have determined to remove thither and reside there with his family. Continuing to be one of the principal secretaries of state, and appointed by James one of the *provisional council* in England, for the colony of Virginia, in the commission to Henry Viscount Mandeville, and others,† issued by that monarch shortly after the judgment in the court of king's bench on the *quo warranto*, to avoid the former charters of Virginia, it is not probable that Sir George put in execution his intention of removing to Ferryland, prior to the death of king James. On this event it seems to have been supposed, that this commission, as well as that to Sir Francis Wyat and others, of the 26th of August (1624,) for the establishing a government in Virginia, were annulled by the demise of the crown.‡ On the accession of Charles to the throne, it appears, that Sir George Calvert ceased to be a secretary of state, for we find that lord Conway and Sir John Cook are mentioned as secretaries of state in August, 1625, about five months after the death of king James,§ and Sir George Calvert is no more men-

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1625.

* Mod. Univ. Hist. Vol. 39, p. 250.

† This commission bears date July 15th, 1624, about eight months before the death of king James. See it in Hazard's Collections, Vol. 1, p. 183. See note (R) at the end of the volume.

‡ Holmes's Annals, Vol. 1, p. 234.

§ Rapin's Hist. of Eng. (Tindal's edit.) Vol. 8, p. 333.—

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1625.

1628.

Lord Bal-
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tioned in history in that capacity. He was, for his past services to the crown, created about this time, (either by king James, a little before his death, or by Charles, in the first year of his reign,) lord baron of Baltimore, in the kingdom of Ireland.* Disengaged from the duties of office, he had now leisure to attend to his project of establishing a colony in America. With this view, it is said, that in the beginning of the reign of Charles he visited in person his colony in Newfoundland.† Residing here for a few years, he soon discovered that it was not a country fit, or at least eligible for colonisation. As he had, without doubt, received full information of the flourishing situation of the colony of Virginia, and favourable accounts of the climate and soil of the country bordering on the Chesapeake, he was induced, in the year 1628, to visit that colony, in search of some more desirable situation for his Ca-

From the English histories of these times it appears, that there were then usually but two principal secretaries of state, and lord Clarendon (Hist. of the Rebellion, p. 21.) in characterising the different personages of young Charles's court, mentions "the two secretaries of state," Sir John Coke and Sir Dudley Carleton, the latter of whom had been recently put into the place of lord Conway, removed for age and incapacity. Lord Clarendon also here observes, that "the secretaries of state were not in those days officers of that magnitude they have been since, being only to make despatches upon the conclusion of councils, not to govern or preside in those councils."

* He was not created lord Baltimore at the time of the commission of July 15, 1624, being then styled only Sir George Calvert.

† Chalmers's Annals, Vol. 1, p. 201.

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tholic dependents.* Whether a jealousy of his colonial views, or those general prejudices against the papists, which were now more prevalent than ever, even in the mother country, operated with the Virginians, his visit was received by them most ungraciously indeed. What renders this reception of him somewhat more surprising, is, that the colonists of Virginia had not emigrated from England to evade religious persecution, as those of New England are supposed to have done, but seem to have been allured to it originally by the prospect of a sudden accumulation of wealth, by means of the discovery of mines as the Spaniards had done, or a shorter route to the Indies. The Church of England was then the established religion in Virginia, and Puritanism had not been hitherto encouraged among them. It is true, that those in England who were denominated high churchmen, as archbishop Laud and others, were accused by the Puritans of being inclined to popery; but it is to be remembered, that king Charles constantly professed, and apparently with sincerity, to be alike opposed to popery and Puritanism.† He

* Some writers make his visit to Virginia to have been in 1631; (See Holmes's Annals, Vol. 1, p. 261;) but Burkin in his late History of Virginia, Vol. 2, p. 25,) places this event in 1628; for which he seems to rely on a MS. copy of "Ancient Records" of Virginia, in his possession, preserved from destruction in the time of the American revolution, by colonel Byrd.

† Even Rapin acknowledges, that he did not believe that either the king or archbishop Laud ever formed the design of restoring the Romish religion, and mentions the circumstance of the archbishop being offered a cardinal's cap, if he would help to do it. Rapin's Hist. (Tindal's edit.) Vol. 2, p. 526-7.

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was evidently less inclined to favour the papists than his father had been. It is clearly perceptible throughout the early part of his reign, that the churchmen considered themselves as standing upon a ground quite distinct from either the papists or the Puritans. Taking the tone from the sovereign, the officers of justice began to put in execution the laws against both more frequently than in the former reign though the emptiness of the royal coffers induced the monarch to connive at the frequent practice of compounding for the penalties. It is not impossible, but that this disposition of the minds of churchmen towards the Catholics, had passed by this time across the Atlantic to Virginia.

The conduct of the Virginians towards him.

Immediately on the arrival of lord Baltimore in Virginia, the assembly of that province, actuated, as is supposed by a late historian,* by a sense of duty, caused the oaths of allegiance and supremacy to be tendered to him and his followers. He rejected them, proposing, however, at the same time, for himself and his followers a form of oath, which he declared himself ready to accept. As particular forms of these oaths were prescribed by particular statutes, it was not in the power of the assembly to dispense with them after being tendered. In this state matters rested, the assembly contenting itself with laying the whole transaction before the privy-council in England.†

Setting aside the want of courtesy and hospitality in this treatment of lord Baltimore, and the ques-

* Burk, in his Hist. of Virginia, Vol. 2. p. 25.

† Burk's Hist. *Ibid.*

tionable colonial policy of the measure, as it would appear to us at this day, considerable doubts might arise, as to the legal power of the assembly, in this instance, to tender these oaths to his lordship. No such power appears to have been given by what is called the first charter of Virginia, of 4 Jac. 1. By the second charter of the 7 Jac. 1, power was given (as before-mentioned*) "to the treasurer for the time being, and any three of the council," (that is, any three of the council of Virginia *in England*,) "to tender and exhibit the said oath" (of supremacy,) "to all such persons as shall at any time be *sent and employed* in the said voyage." By the third charter of Virginia, of the 9 Jac. 1, power is given to the treasurer or his deputy for the time being, "or any two others of the said council, for the said first colony in Virginia, to minister and give the oath and oaths of supremacy and allegiance, or either of them, to all and every person and persons which shall at any time or times hereafter, go or pass to the said colony of Virginia." But it is evident, that these clauses of *dedimus potestatem*, in both these charters, vested authority for that purpose in the treasurer and company *in England*, and not in any of the members of the government *in Virginia*, and that too must have been necessarily exercised by them before such persons passed into Virginia. But after all, should this reasoning not be thought to be correct, it is certain, that these charters were all annulled by the judgment of the court of king's bench, on the *quo warranto* before-mentioned, and

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* See this clause of this charter before recited in p. 159.

SECT. IX. the assembly itself was but a self-created body, not authorized by the commission of government to

1628. Mr. John Hervey, of the 26th of March, 1627, the only then existing authority for the government of Virginia. Moreover, if these oaths were tendered to him by two justices of the peace, of the province, the statutes which enabled two justices to do so, expressly excepted noblemen from their jurisdiction.

Differences among the Catholics with respect to the oaths of allegiance and supremacy.

It was not to be expected, that such a conscientious Catholic, as lord Baltimore is represented to have been, could with propriety have taken the oath of supremacy, which oath at that time was the one prescribed by the statute of 1. Eliz. ch. 1, sec. 19; inasmuch as he must thereby have declared, that the king was the only supreme governour of all his dominions and countries, "as well in *all spiritual or ecclesiastical things or causes*, as temporal." This could not consistently be done by one who believed the pope to be the supreme head of the Christian church. It was, probably, then known also by his lordship, being an Irish peer, that pope Urban VIII had but a few years before (in the year 1626) issued his bull to the Irish Catholics, in which "he exhorted them rather to lose their lives, than to take that wicked and pestilent oath of supremacy, whereby the sceptre of the Catholic church was wrested from the hand of the vicar of God Almighty."* But as to the oath of allegiance, which was that prescribed by the statute of 3 Jac. 1, ch. 4, sect. 15, although it required a denial

* Leland's Hist. of Ireland, Vol. 2, (ch. 8,) p. 479.

of the pope's power of excommunicating kings, and thereby deposing them, yet many of the moderate English Catholics, soon after the making of the statute of 3 Jac. 1, in the year 1606, thought that they could with propriety, and actually did, take the oath prescribed by that statute; and in this they were encouraged by George Blackwell, who had been established as the archpriest or superior of the Catholic church in England, and who gave it as his opinion that the English Catholics might with safety take this oath of allegiance. But pope Paul, by a brief, in 1606, forbade them to take it. Blackwell refused to publish the brief, and on that account the English Catholics conceived, that it was a forged one. The pope, however, renewed his prohibition, and cardinal Bellarmine wrote a sharp letter of reproof to Blackwell, exhorting him to redress his fault, and rather suffer martyrdom than continue that course. Blackwell answered Bellarmine, that since the ablest divines did not believe that the pope had any power over the temporals of princes, he thought that he might in conscience take the oath according to that opinion.* This letter of Bellarmine

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* Blackwell probably alluded here to some controversial writings, which the then recent dispute between pope Paul V, and the republic of Venice, had occasioned. That pontiff had thought that some laws or decrees of the senate interfered with his ecclesiastical jurisdiction, and demanded by his nuncio, that they should be revoked. The senate supposing that these laws concerned only matters which were properly the subjects of their internal police, refused the demand. Two clergymen also, who had committed crimes, were about to be punished. He demanded, that they should be delivered up, to be tried by his ecclesiastical judges. This also the

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and the two briefs of the pope, drew forth the pen of king James, who was always glad of an opportunity of displaying his talents for theological controversy ; and it is said,* he clearly demonstrated that the cardinal had confounded the two oaths of supremacy and allegiance, and thereby shown, that he did not understand the subject. The intended distinction between them, appears to have been, that the oath of supremacy obliges the subject to acknowledge the king for supreme head of the Church of England, as well as to bear allegiance to him ; but the oath of allegiance, prescribed by the statute of 3 Jac. 1, requires only submission and obedience to the king, as a sovereign, independent of any other power upon earth.† So that it was supposed, that every Catholic could safely take this new oath, unless he was one of those who thought, that to be a true Catholic it was necessary to believe, that the pope had power to depose kings, and give away their dominions. It is said also,‡ that the commons having put into the rough draught of the oath, “ that the pope has not power to excommunicate the king,” James observed, that these words might

senate refused. The consequence was, that his holiness pronounced the doge and the republic excommunicated. This dispute occasioned many books to be written, in different parts of Europe, relative to the bounds of division between ecclesiastical and political power ; in which many sound Catholics attempted to maintain the independence of princes and states against the papal power. See Dupin's Hist. of the Church, Cent. 17, chap. 2 and 3.

* Rapin's Hist. (Tindal's edit.) Vol. 8, p. 65.

† Ibid. Vol. 8, p. 62.

‡ Ibid.

possibly offend his good Catholic subjects, and it would be sufficient to assert, that the pope's ex-communication could not authorise subjects to rise against their sovereign. Whether foreigners, especially Catholics, really understood these distinctions or not, it seems that soon afterwards, in conformity to the sense of it at the court of Rome, the English Catholics generally adopted the resolution of rejecting both oaths alike. It was not to be wondered at, therefore, that lord Baltimore should on this occasion, have also pursued that line of conduct.

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Whether lord Baltimore personally, at the time of his visit to Virginia, explored that tract of country now denominated Maryland, of which he afterwards procured a grant, we are not positively informed. But, as the obtaining a more complete knowledge of the country bordering on the Chesapeake, than he could otherwise possibly have from report, must have been the principal object of his visit, we cannot but suppose, that he must at this time, notwithstanding the discouragement of his pursuits by the Virginians, have made the tour by water of the principal parts of the Chesapeake bay. Although it is highly probably, that the Virginians had then been for some time in the practice of trading and bartering with the Indian natives inhabiting the shores of that bay, even to its head, at the mouth of the Susquehanna; and might, indeed, as it is said, have established trading-houses on some of the islands toward the head of the bay,* particularly perhaps on the isle of Kent; yet, if the "ancient

Lord Baltimore forms the scheme of settling a colony in Maryland.

* Holmes's Annals, Vol. 1, p. 261.

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records'' of Virginia, before-mentioned, and cited by a late historian of that state, be authentic to prove that this visit of lord Baltimore to Virginia, was in the year 1628, which we have here taken as granted, there are strong grounds to presume, that at this time there had been no actual settlements made, either by the Virginians or any other Europeans, within the lines and limits of any part of that country for which the lord Baltimore afterwards obtained a grant, unless a colony of Swedes and Fins, which had arrived in the Delaware, in the preceding year, (1627,) and may be supposed to have been in this year settling themselves at the mouth of Christina creek, near Wilmington, in what is now called the Delaware state, be considered to have been within the limits of his lordship's patent. It may be proper to take some further notice here, of this attempt at colonisation by the Swedes, inasmuch as it was made the ground of a charge in the bill in chancery, filed by the Penns, proprietors of Pennsylvania, in the year 1735, against lord Baltimore, in a dispute concerning the bounds of their provinces, that his lordship had set forth, in his petition to the king for his grant, what was not true; that is, that the country for which he prayed a grant, "*was not then cultivated and planted*, though in certain parts thereof, inhabited by certain barbarous people;" by means of which false suggestion, it was contended that his patent was void, at least for so much as was within their claim.*

* From a MS. copy of the above-mentioned bill in chancery, in my possession, the following clause is abstracted: "and

It appears, that in the year 1626, under the reign of Gustavus Adolphus, king of Sweden, a scheme was formed in that kingdom, for settling a colony in America. This was chiefly promoted by the great commendation which William Ussellin, (or Useling,) an eminent Swedish merchant, gave of the country in the neighbourhood of what was then

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Settle-
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colony of
Swedes on
the Dela-
ware.

your orators further show unto your lordship, that on the eastern side of the said peninsula or tract, and also above the said peninsula or tract, within the main land or continent, and towards the sea and the estuary and river of Delaware, there was, of very early and ancient times, (*the beginning whereof is not known.*) a settlement and plantation, made and planted and inhabited by *Christians of the Swedish nation*; and the said settlement and plantation was *afterwards held and inhabited in the year 1609*, and for many years then after, by *Christians under the dominion of the States General, of the United Provinces.*" Mr. Murray, (afterwards lord Mansfield,) who drew this bill, was certainly misinformed as to two facts exhibited in this allegation. No authentic history has ever yet undertaken to show, that the Swedes were settled on the Delaware, in "times the beginning whereof is not known," nor indeed prior to the year 1627, as is stated in Proud's Hist. of Pennsylvania; and it is, moreover, entirely inconsistent with the early events of the History of Virginia, wherein no circumstance to that purpose is recognised. The other fact stated, seems to be in consequence thereof, evidently groundless, to wit: that the Dutch had "*afterwards, in the year 1609*, held and inhabited the said settlement of the Swedes." Now it seems to be agreed on all sides, that captain Hudson did not make his *voyage of discovery*, under the authority of the Dutch, until the year 1609; and it was not until the next year, (1610,) that the Dutch colony was sent out, which settled on Manhattan (now New York) island. It would necessarily take some years for them to have extended their *possessions and habitations* to the Delaware. Accordingly, the historian of Pennsylvania, (Proud,) makes the first

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called New Netherlands, now New Jersey and New York. Gustavus was thereby induced to issue a proclamation, exhorting his subjects to contribute to a company associated for the settlement of a colony in that country. Considerable sums were raised by contribution; and in the next year, (1627,) a number of Swedes and Fins came over to America. They first landed at Cape *Inlopen*, the interior Cape of Delaware bay,* which, from its pleasant appearance to them, they named *Paradise-point*. They are said to have purchased of some Indians, the land from Cape *Inlopen* to the falls of Delaware, on both sides of the river, which they called *New Swedeland* stream; and made presents to the Indian chiefs, to obtain peaceable possession of the land so purchased: with whom they appear to have lived

settlement of the Dutch on the Delaware, to have been in the year 1623, "near Gloucester, in New Jersey;" which apparently indicates, that their first exploring excursions to the Delaware were from Manhattan across the Jerseys; and this was, as Proud asserts, "before any of the *Swedes* came into America." See Proud's History of Pennsylvania, Vol. 1, p. 110.

* A note is here made by Mr. Proud, (in his Hist. of Pennsylvania, Vol. 1, p. 111,) as follows: "this cape is frequently confounded with Cape *Hinlopen*, the exterior, or the *False Cape*, in *Fenwick's* island, being written in the same manner, and sometimes *Henlopen*; said to be a Swedish word, signifying *entering in*. It was also formerly, sometimes called Cape *Cornelius*, and afterwards, by *William Penn*, Cape *James*." From this it would appear, that the aspirate letter H, in the Swedish language, prefixed to the word *Inlopen*, altered the sense of it, from the *interior* to the *exterior* cape, the latter of which was at *Fenwick's* island.

in much amity ;* but they were frequently disturbed by the Dutch settled at Manhattan, now New York, who, extending their territories, which they called New Netherlands, so as to include the western shores of the Delaware, built a fort in the year 1630, on a small creek near Cape Inlopen or James, calling it Hoarkill, since called Lewis town.† While we are upon this subject, it may not be improper to observe further, that it seems to be agreed by historians, that in the succeeding year, (1631,) the Swedes erected a fort on the west side of Delaware, at a place near Wilmington, upon the river or creek, which still, from the name of the fort, is called *Christina*, or commonly *Christeen*,‡ where they had laid out a town, and made their first settlement.§

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* Smith, in his Hist. of New Jersey, says, it is uncertain, whether they bought the land of those natives, who could properly convey it. Holmes's Annals, Vol. 1, p. 242.

† The building of this fort at Lewis town, is differently related in Holmes's Annals, Vol. 1, p. 259, under the year 1630. He says, "the Dutch continuing their pretensions to the land settled by the Swedes, *one of the Swedes* built a fort (this year) within the Capes of Delaware, "at a place called Hoarkill;" for which he cites Smith's Hist. of New Jersey, 22. So that from him it would seem, that the fort above-mentioned was built by the *Swedes*, and not the *Dutch*, as it is stated in Proud's Hist. of Pennsylvania, Vol. 1, p. 113 ; from whence what is said above in the text here, is taken.

‡ This is sometimes corruptly spelt *Christiana*, but as the name of Gustavus's mother was *Christina*, and he had a daughter, born in 1626, called *Christina*, who succeeded him as queen of Sweden, and was much celebrated in history, it is probable that *Christina* is the true name of the fort and creek.

§ Proud's Hist. of Pennsylvania, Vol. 1, p. 115. It seems to have been the opinion of two very judicious annalists of our

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Supposing this settlement of the Swedes at Christina, in the year 1631, to have been the first *permanent* settlement made by them on the Delaware, as it would appear to be, although temporary habitations might have been erected by them before that time at Hoarkill, or other places, *for the purposes of traffic* with the natives, it goes very far to justify the suggestion of lord Baltimore before-mentioned, that the territories for which he prayed a grant, were "hitherto unsettled;" which receives further confirmation by the possibility of his being ignorant of the first trafficking voyage of the Swedes to the Delaware, in the year 1627, which was but the year preceding that of his visit to Virginia. But allowing that he had full knowledge of the arrival of the Swedes in the Delaware, in the year 1627, it was natural for him to have considered them only as interlopers, intruding into the British dominions ;*

country, that neither the Swedes nor Dutch had, prior to the year 1629, formed any *permanent* settlements on the Delaware. In Holmes's Annals, Vol. 1, p. 251, (under the year 1629,) it is said : " Although the subjects of different nations *now traded with the natives* in the bay of Delaware, no settlements appear to have been formed on either margin of it, by the Dutch or Swedes ;" for which he cites Chalmers, 1, 227.

* That all other nations who attempted to make settlements in any part of North America, especially in those parts of it lying between the colonies of Virginia and New England, were considered by the English at this time, as intruders within their dominions, is evident, not only from the preceding expedition of captain Argall, against the French and Dutch as before-mentioned, but from their subsequent contests with the Dutch about their settlement at Manhattan. This claim of theirs was founded on the right of prior discovery by Sebastian Cabot ; to demonstrate which, a small tract

and therefore, in his representation to his majesty, not entitled to be considered as persons, whose settlements could obstruct his grant. The Dutch, whatever their subsequent claims might have been, had then certainly made no permanent settlements within the limits of his grant. With regard to the extent of his patent to the fortieth degree of latitude, (inclusive,) it is to be observed, that the latitudes of the different places of such a new country, must

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1628.

or essay was drawn up by some anonymous writer, most probably towards the end of the Dutch war in 1654, but published in Thurloe's State Papers, under the year 1656; (see it in Hazard's Collections, Vol. 1, p. 602,) entitled "A Brief Narration of the English Rights to the Northern parts of America;" in which the author, after some laboured reasoning, and metaphysical distinction between *general* and *particular* rights, concludes, "that as the general and particular rights of the English to those northern parts of America, are so plainly and perspicuously laid down, so upon a due examination it will be found, that the Dutch have no right at all, either in the general or particular, but *have intruded into and anticipated the English in their rights.*" Agreeably to this right of the English, preparations were made by the New Englanders, in 1654, for conquering the Dutch settlement at Manhattan; but Oliver, desirous that the two sister republics, the English and Dutch, should be well with each other, clapped up a sudden peace in April, 1654, which put an end to the hostile intentions of New England, and left the Dutch for some years in quiet possession of New Netherlands. In the next year, (1655,) the Dutch made a conquest of all the Swedish settlements on the Delaware. Smith's Hist. of New York, 18, 19: but Oliver, charmed with the fine character of Charles X, king of Sweden, made a treaty with him in the year 1656, in which he promised to grant such of his majesty's Swedish subjects as should be recommended by him, "special licence" to trade in America. See Hazard's Collections, Vol. 1, p. 605, and Hume's Hist. ch. 61.

SECT. have been subject to much error, being often taken
IX. and so set down by unskilful persons ; and, as lord

1628. Hardwicke observed, in the great case of these two proprietors, (the Penns and lord Baltimore,) before referred to, it is a fact, that latitudes were then fixed much lower than they have been since found to be by more accurate observations. A mistake of the latitude, in extending his northern bounds, might therefore have been very unintentionally made.*

The Vir-
ginians
oppose
the lord
Balti-
more's
scheme.

As both the second and third charters of Virginia, before-mentioned, unquestionably comprehended the whole of the country afterwards called Maryland, it was to be expected that the colonists of Virginia, would make some objections to any grant, whereby a part of their territory should be lopped off from them and transferred to others. But, although some apprehensions on this ground of supposed injury to them in their rights, were artfully raised among them, so as to induce them in a few years afterwards, to prefer a petition to the king and council, against any grant of their territory to lord Baltimore, as will hereafter be seen in its proper place ; yet it appears, that they had too much discernment, not to perceive, on more mature reflection, that a colony planted so near to them as that of Maryland, so far from being injurious, would be highly beneficial to them, particularly in contributing to their greater security from the hostile invasions of the savages. And when we reflect upon the enormous extent of those territories included within the lines of their charters, to wit : “ from the

* See note (H) at the end of this volume, before referred to.

point of land called *Cape or Point Comfort*, along the sea-coast to the northward, two hundred miles, and in equal distance to the southward, and from sea to sea, west and northwest ;” that is, from the Atlantic to the Pacific Ocean, it leaves the question of policy, and indeed of right and justice, easily to be decided at this day. We may here further observe, that inasmuch as these charters of Virginia had been all annulled by the judgment of the court of king’s bench, in the year 1624, (whether right-fully or not, could not be questioned but in a legal manner, by writ of error or appeal to a superior tribunal,) all political right of the colonists in Virginia to any territory whatever, except to the particular tracts which each individual colonist occupied, must have been taken away from them by such judgment until reversed. It seems, therefore, with regard to the colonists in Virginia, in a corporate capacity, to have been an act perfectly justifiable in lord Baltimore to apply for, as well as lawful for the king to grant, all that territory included within the lines of his patent.

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But the most formidable objection raised against his grant, seems to have been founded on a circumstance, apparently immaterial to the public, however it might interfere with the private rights of some individuals. It has been alleged, on a variety of occasions, that settlements had been established by the Virginians, under the authority of William Clayborne, within the country afterwards denominated Maryland, prior to the date of his lordship’s charter of grant for the same,* and that as it was suggested

* June 20th, 1632.

SECT. therein, that the country was *hitherto unsettled*,
 IX. "*hactenus inculta*," his grant became thereby void.

1628. But it seems to be extraordinary, that although history recognises this objection as being frequently made, yet it furnishes no authentic proof of the fact on which it is founded. If lord Baltimore's visit to Virginia was in the year 1628, as we have supposed on the authority of the History of Virginia, before-cited,* there are some established facts in history, which seem to indicate very strongly, that at the time of *his visit* to Virginia, whatever there were at the time of his grant, no such settlements had been made. Temporary habitations, for the purposes of traffic with the natives, might have been before that time erected, both on the isle of Kent and at the mouth of the Susquehanna, as contended; but these were certainly not such settlements as could preclude the right of the crown to grant, or the justice and policy of planting in that country a numerous colony. It may be proper, however, to investigate the claim of William Clayborne a little more minutely.

William
 Clay-
 borne's
 claim.

When king James had caused the charters of Virginia to be dissolved by a judgment in the court of king's bench, as before-mentioned, and had vested the supreme direction of the affairs of Virginia, in a provisional council, in England, he afterwards, also, as before observed, issued his commission, bearing date the 26th day of August, 1624, to Sir Francis Wyat, and others, vesting the government

* "Ancient Records," mentioned in Burk's Hist. of Virginia, as before-cited.

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1623.

in Virginia, in a governour and council, who should reside in the colony. Among those so nominated of the council, was William Clayborne. From whence we may infer, that he was then, or shortly afterwards became a resident in Virginia; and was a man, who by some merit, had attracted the royal notice. When king Charles, on the death of his father, renewed the commission for the government of Virginia, to Sir George Yardley, and others, of the 4th of March, 1625, Clayborne was continued as one of the council. Moreover, in the same commission, towards the conclusion thereof, he was appointed secretary of state in Virginia, in the following remarkable expressions: "and forasmuch as the affairs of state of the said colony and plantation, may necessarily require some person of *quality and trust*, to be employed as secretary, for the writing and answering of such letters, as shall be from time to time directed to, or sent from the said governour and council of the colony aforesaid, our will and pleasure is, and we do by these presents, nominate and assign you the said William Clayborne, to be our secretary of state, of and for the said colony and plantation of Virginia, residing in those parts; giving, and by these presents granting unto you, the said William Clayborne, full power and authority to do, execute, and perform all and every thing and things whatsoever, to the said office of secretary of state, of and for the said colony and plantation of Virginia, incident and appertaining." By the subsequent commission to John Harvey, esquire, and others, of the 26th of March, 1627, for the government of Virginia, Clayborne was again continued

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1628.

one of the council, and re-appointed secretary of state, in the same words just cited from the former commission ;* from whence we are enabled to collect some ideas of the character and standing of this gentleman, who afterwards proved so troublesome to lord Baltimore and the early settlers of Maryland. As it seems to have been a practice with many of the first colonists of Virginia, especially those of note and influence, to endeavour to derive some emolument to themselves, by carrying on a traffic or bartering with the Indian natives, particularly those inhabiting the shores of the Chesapeake, for their peltry, and such other commodities as would afford a profit, when sold in the province, or exported to Europe, we find that Mr. Clayborne was one of those, who availing himself of his station and influence, early sought to better his fortunes in this way. But it seems, that this species of traffic could not be carried on without a special licence, either from the king himself or the governor of the province ; for reasons founded, without doubt, in the personal danger of the colonists in general, by too indiscriminate an intercourse with the natives, especially in furnishing them with fire-arms, and the means of forming conspiracies. Accordingly, we find that Clayborne, in the year 1631, several years after lord Baltimore's visit to Virginia, obtained a licence, under his majesty's hand and the signet of Scotland, " to trade with the Indians of America, in such places where the said trade had not formerly

* For these several commissions relative to Clayborne, see Hazard's Collections, Vol. 1, p. 189, 230, 234.

been granted by his majesty to any other.”* On which it may be observed, that it seems somewhat extraordinary, that Mr. Clayborne should, at that late period, have thought it necessary to obtain such a licence, if any settlements had been formed by him, at the time of lord Baltimore’s visit to Virginia, in 1628, either on the isle of Kent, or at the mouth of the Susquehanna, as alleged. If no such settlements had then, or even indeed prior to the licence in 1631, been made; but immediately on lord Baltimore’s departure, under a full knowledge of his lordship’s intentions of procuring a grant of that country, as may be fairly inferred, Clayborne being then, in 1628, the secretary, and of course a resident of Virginia, endeavours were made by him, under the cover of a licence for trade, to fix settlements at those places, it must in candour be acknowledged, that such conduct had much the appearance of a fraudulent anticipation, and well merited the fate which it afterwards received.

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1628.

Another fact, which authorises an inference, that no such settlements were formed prior to Clayborne’s trafficking licence in 1631, is the petition of the planters in Virginia, to the king in council, against the lord Baltimore’s grant, according to the *recital* of it in the “order in council,” of the 3d of July, 1633. The preamble to the order thus states the petition: “Whereas an humble petition of the

* See the recital of this licence in the order in council upon Clayborne’s petition. Hazard’s Collections, Vol. 1, p. 431; and towards the end of this volume. The date of the licence is mentioned in Burk’s Hist. of Virginia, Vol. 2, p. 40. to have been in 1631.

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planters in Virginia, was presented to his majesty, in which they remonstrate, that some grants *have lately been obtained*, of a great proportion of lands and territories within the limits of the colony there, *being the places of their traffic*, and so *near the places of their habitations*, as will give a general disheartening to the planters, if they be divided into several governments, and a bar to *that trade* which they have long since exercised towards their sup- portation and relief, under the confidence of his ma- jesty's royal and gracious intentions towards them, as by the said petition more largely appeareth. For- asmuch as his majesty was pleased, on *the twelfth of May last*, to refer to the board the consideration of this petition," &c. &c.* From this statement, may be collected some very material facts relative to the present question. It is at once observable, that not the slightest mention is made therein of any *settlements* established within the territories so granted, as complained of; but that those territories had "been *the places of their traffic*," and were "*near the places of their habitations*." Now, had there been any *settlements* actually formed within these territories before the time of drafting this peti- tion, other than temporary settlements for the pur- poses of "traffic," it would, without doubt, have been so stated in the petition, and dwelt upon as an exaggeration of their grievance. But the next ex- pression in the same sentence, "*near the places of their habitations*," seems to deny the supposition,

* See this "order in council" at large, in note (S,) at the end of this volume.

that they had then any *habitations*, that is, *settlements*, within these territories so granted, being only *near* them. Not being able to have recourse to the petition itself, we are left to infer the *date* of it, and the *time* referred to in the description of these territories, from some of the above expressions. That the petition was drawn after the date of lord Baltimore's charter, which is June 20th, 1632, may be implied from the expression, "grants have lately been obtained." That it was before the 12th of May, 1633, is to be gathered from the time of its reference to the council, "the twelfth of May last." It was, therefore, framed some time between the 20th of June, 1632, and the 12th of May next succeeding that date. Taking the mean-time for the date of this petition, to wit: some time in the latter part of the year 1632, about four or five months after the date of lord Baltimore's charter, we have a period of time, when, as we are informed by this petition, there were no actual or permanent settlements formed within the limits of these territories granted to lord Baltimore; and also, a strong implication, that the "places of their traffic" here alluded to, were some that Clayborne had fixed up, perhaps on the isle of Kent and at the Susquehanna, in virtue of his royal licence before-mentioned, obtained by him in the year 1631.

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1628.

It has been deemed necessary, to state the preceding circumstances, relative to the objections against lord Baltimore's grant, in order to show what was the real situation of the country thereby granted to him, at the time of his visit to Virginia, in the year 1628. From all which, it would seem,

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1628.

that his lordship might have returned to England, with the intention of soliciting a grant of all that country, which he subsequently denominated Maryland, and with a thorough conviction in his own mind, that it was then, in the year 1628, uninhabited by any but savages, and with the most perfect honesty and integrity of conduct, suggested to the king, that the country for which he desired a patent, was, as that instrument expresses it, "*hactenus inculta*," hitherto unsettled.

1629.

Lord Baltimore returns to England, and relinquishes his views of a settlement in Newfoundland.

It is probable, that lord Baltimore did not take his departure from Virginia, until the following year. As few of the minute incidents of this nobleman's life have reached us, we are not informed whether he returned from thence to his province in Newfoundland, or to England; it is most probable, to the former. He is said to have made two visits to his colony at Ferryland; and that, in his second visit to that place, Great Britain being then at war with France, he was so fortunate as to perform some considerable services in recovering above twenty sail of English ships, which had been taken by a French squadron, and in capturing several of the enemy's fishing ships on the coast. As this war had been commenced by England against France, rather suddenly, about April, 1627, without any previous proclamation, and indeed without any just cause, through the instigation of the unprincipled Buckingham, then the sole director of all affairs in England, and who was regardless of everything but his own interest and pleasures, there is no wonder that the vast number of English ships, which

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then frequented the coast of Newfoundland,* should have been left unprotected, and a prey to the first French force that might be sent against them. How lord Baltimore accomplished the recovery of these English ships, or the capture of the French fishing vessels, which were most probably unarmed, we are not informed. A sort of *petit guerre*, however, seems to have been carried on at this time between the English and French, in this part of America. The valuable right of fishery on the banks, to which the French had never relinquished their pretensions, was, without doubt, some cause of contest. In this year also, (1629,) a successful attack was made by a certain David Kertk, a French refugee and Hugonot, with his two sons, under the English banners, and with a considerable English force, upon the feeble settlement which the enterprising Champlain, was then endeavouring to support at Québec. But, peace being made between the two countries, in the early part of this year, though probably not known in America until these events had past, Quebec and Canada were afterwards restored, and the French left to pursue their schemes of settlements and trade on the St. Lawrence, and the western shores of Newfoundland. These circumstances, together with the discouraging appearances

* It appears from Smith's Hist. of Virginia, as cited by Mr. Holmes, (in his Annals, Vol. 1, p. 237,) under the year 1626, that the coast of Newfoundland, for most of the late years, was frequented by two hundred and fifty sail of English vessels, estimated at fifteen thousand tons, employing five thousand persons, and making an annual profit of about one hundred and thirty-five thousand pounds sterling.

SECT.
IX.

1629.

1630.

1632.

Obtains
the pro-
mise of a
grant of
the pro-
vince of
Maryland,
which is
given, on
his death,
to his son
Cecilius.

of the climate and soil of the country, soon convinced his lordship, that it would never answer his purposes in colonisation. Having found the country on the shores of the Chesapeake so much better suited to his plans, we may suppose, that in the succeeding year he returned to England, with the intention of exerting his influence at the English court, to obtain a grant thereof.

It seems to have been considered by the king and his ministers, about this time, that on the dissolution of the charters of Virginia, as before-mentioned, a right vested in the crown of subdividing or re-granting such parts of the territories of Virginia formerly included within the lines of these charters, as had not before been parcelled out into small tracts to particular individuals. The king being under this impression, and lord Baltimore standing high in his personal esteem, the latter found little difficulty in procuring from his majesty, the promise of a grant of such a tract of country as his lordship then described to him. But before a charter or patent for that purpose could be finally adjusted, and pass the seals, his lordship died, on the 15th of April, 1632. He left several sons; but Cecilius Calvert being his eldest, and by the laws of England, heir not only to his father's title, but perhaps to the bulk of his estate, the charter of grant, intended for his father, was, it seems, without hesitation, on the 20th of June following, executed to Cecilius, now become also, baron of Baltimore, in the kingdom of Ireland. It was intended, it is said, that the country granted by this charter, should have been called *Crescentia*; but when it was pre-

sented to the king for his signature, in conformity to his majesty's wishes, the name of the province was changed to that of Maryland, in honour of his queen, Henrietta Maria, a daughter of the great king Henry IV, of France.

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IX.

1633.

POSTSCRIPT.

ALTHOUGH the lord Baltimore's charter, ought with propriety, to be here inserted, yet, as it would occupy a very large portion of this volume, and recourse can easily be had, by most of our readers, to the publication of it in several compilations of the laws of Maryland, and also in Hazard's Collections, Vol. 1, p. 327, it is hoped the reader will excuse the omission of it.

HISTORY OF MARYLAND

A

SKETCH

OF THE

HISTORY OF MARYLAND,

DURING THE THREE FIRST YEARS,

AFTER ITS

ORIGINAL SETTLEMENT.

HISTORY OF MARYLAND.

CHAPTER I.

Cecilius, lord Baltimore, prepares for sending out a colony—The Virginians petition against his charter—Their petition ineffectual, and the planters reconciled—Lord Baltimore appoints his brother to conduct the colony—Their arrival in the Chesapeake—They explore the Patowmack—The governour fixes upon St. Mary's for their first settlement—Circumstances favourable to them—Proceedings of the colonists after landing—Great harmony between the natives and colonists—Interrupted by Clayborne and his party—Clayborne resorts to open military force—The lord proprietor's instructions relative to grants of lands—Grants of small lots in the town of St. Mary's—The nature of the first form of government of the colony—An ordinance for that purpose—Proclamation in England against emigration—Traffic with the Indians regulated in the province—The isle of Kent reduced to lord Baltimore's government—The county of St. Mary's organized—An assembly of the province called—The first assembly of the province meet—The assembly take into consideration the laws sent in by the proprietor—The laws sent rejected—How far the laws of England were deemed to be in force—The laws sent in by the proprietor again proposed and rejected—Courts of justice meet—Proceedings therein against Clayborne's party—The inhabitants of the isle of Kent refuse to submit—Governour Calvert proceeds with a military force against them—Secretary Lewger authorised to hold the assembly—Act of attainder against William Clayborne—Trial of Thomas Smith, one of Clayborne's men—Inquiry by the assembly into the conduct of captain Cornwallis—Resolution of the assembly relative to servants—The assembly dissolved—The lord proprietor refuses his assent to the laws enacted by the assembly—William Clayborne's petition to the king in council, and order thereupon.

CHAP.
I.

CECILIUS CALVERT, baron of Balti-

more, having, on the twentieth of June, 1632, obtained his charter for the province of Maryland, as before-mentioned, had now to make preparations for carrying into effect his father's intended plan of colonisation. The procuring a sufficient number of colonists, and the furnishing them with all conveniences and necessities essential to a residence in a remote country, which was as yet a wilderness, unavoidably protracted the time of their departure from England to some considerable length.

1632.
Cecilius,
lord Balti-
more, pre-
pares for
sending
out a co-
lony.

1633:
The Vir-
ginians
petition
against this
charter.

In the mean-time, however, much discontent was industriously excited among the planters in Virginia, by inducing them to suppose, that the very soil upon which they trod, and which they had earned by their fatigues and dangers, was about to be taken from under their feet, and by this charter transferred to others. A petition therefore was framed in the name of the planters, and in May, 1633, presented to his majesty, in which they remonstrate, "That some grants have been lately obtained of a great proportion of lands and territories within the limits of the colony there, being the places of their traffic, and so near their habitations as will give a general disheartening to the planters, if they be divided into several governments, and a bar to that trade which they have long since exercised towards their supportation and relief, under the confidence of his majesty's royal and gracious intentions towards them." The king referred the consideration of this petition to the consideration of his privy-council,

and agreably to this reference the council, on the fourth of June, in the same year, made an order, in which they appointed the twenty-eighth of that month, when the business should be heard, and that all parties interested should then attend. This was done accordingly, and their lordships having heard the cause, ordered that the lord Baltimore and the planters of Virginia should meet together* between that time and the third of July, 1633, and endeavour to accommodate their controversy in a friendly manner. Also, that the propositions made by either party should be set down in writing, with their several answers and reasons, to be presented to the board on that day. This was likewise accordingly done, and on the third of July, same year, it was finally ordered, "that the lord Baltimore should be left to his patent, and the other parties to the course of law, according to their desire; but for preventing of farther questions and differences, their lordships did also think fit and order, that things stand as they do; the planters on either side shall have free traffic and commerce each with the other, and that neither part shall receive any fugitive person belonging to the other, nor do any act which may draw a war from the natives upon either of them; and lastly, that they shall sincerely entertain all good correspondence, and assist each other upon all occasions, in such manner as becometh fellow-subjects and members of the same state."†

* This must have meant, that the planters, by their agents or attorneys in England, should meet the lord Baltimore.

† See this order in council at large, in note (S) at the end of this volume.

CHAP.

I.

1633.

As we are at liberty at this day to judge of this transaction calmly and dispassionately, it is impossible not to perceive, that the planters in Virginia (by whom it may be supposed to be meant in the above order the actual settlers and colonists resident in Virginia, and not any of the numerous members of the old Virginia Company) were instigated to this opposition to lord Baltimore's charter by a few influential persons among them, (particularly William Clayborne) who sought to obtain a property in different portions of the territories of Virginia, without putting themselves to the trouble or expense of obtaining a legal conveyance or charter for the same. Unquestionably by the laws of England, under which they professed to live, the right of granting a property in the soil of the country, was originally, after its discovery by Cabot, vested in the king, and subsequently in the treasurer and Company of Virginia, under the second and third charters from the king. But as the right of making grants of the same, heretofore appertaining to the Company, was taken away by the judgment in the court of king's bench, under the *quo warranto*, which judgment was certainly binding, until legally reversed, such right, by the laws of the kingdom, reverted back again to the king, according to the feudal principles of the monarchy. The planters in Virginia, then, had really no interest in the question. None of their individual rights or particular plantations, on which they lived, were at all invaded. We may, indeed, adopt the observations of a late historian of Virginia upon this subject;—"This grant to lord Baltimore did not interfere with the rights of former set-

tlers, or with the government of Virginia. His object was the establishment of a new colony, which would be her friend and neighbour and ally, against the assaults of the Indians or the machinations of distant powers. The prosperity and reputation of the nation would be advanced by new settlements; and an immense territory was yet reserved to Virginia, far exceeding her wants and her powers. In every point of view the transfer appears judicious and salutary.* It must be acknowledged, however, that these observations of this historian are rather inconsistent with his ill-timed invective in the same page against king Charles and his council, principally on account of this grant. It does not appear from the order in council before-cited, that "*they acknowledged the justice of the claim of the planters,*" as he alleges. The *doubtful* claim could be only between the king and those persons, whose names, as inserted in the second charter, form a very large list of the nobility and gentry of England, to whom the territories of Virginia then in truth belonged,† if they did not to the crown.

Notwithstanding their failure of success in their petition, the planters in Virginia, probably on better information, soon became reconciled, as we are told, to the lord Baltimore's grant, and left the individuals, whose immediate interest it was, to

Their petition ineffectual, and the planters reconciled.

* Burk's Hist. of Virginia, Vol. 2, p. 39.

† They had expended more than 100,000*l.* sterling of their own estates, in the support of the colony in Virginia, at the time of the dissolution of the charters. Holmes's Annals, Vol. 1, p. 233.

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Lord Baltimore appoints his brother to conduct the colony.

persist in their own measures, in any further contest against his right.

His lordship being now invested, as he supposed, with a fair title to his province, and having nearly completed the necessary preparations for the emigration of the colonists, contemplated at first to have attended them himself in person; but afterwards changing his mind, from what cause we are not informed, he appointed his brother, Leonard Calvert, esq., to go in his stead, in the character of governour,* and joined in commission with him Jeremy Hawley and Thomas Cornwallis, esqrs., as *assistants* or counsellors.† George Calvert, esq., another brother, also came with them, but in what capacity is not mentioned. The number of colonists consisted of about two hundred, of whom the names of the chief or principal characters are mentioned in history, as follows, Richard Gerard, Ed-

* In most of the early public acts of the province, he is commonly styled "his lordship's *lieutenant-general*," &c., but as the term *governour* is a word of the same import, and sometimes used in some of the old records of the province, and is of more modern usage, and therefore more intelligible, it is here adopted. The term *lieutenant-general*, as thus used in the early colonisation of the province, was probably adopted from that applied to the king's viceroy or governour of Ireland, who was at this time so termed.

† This commission, it seems, is not extant among any of the records of the province. Kilty's Landholder's Assistant, p. 64. The term *assistant* seems to have been in use about this time, as synonymous to that of *counsellor*. It appears to have been so used in Massachusetts, on the first settlement of New Plymouth. See the Extracts from the New Plymouth Records, published in Hazard's Collections, Vol. 1, p. 411.

ward Winter, Frederick Winter, and Henry Wiseman, esqrs.; Mr. John Saunders, Mr. Edward Cranfield, Mr. Henry Green, Mr. Nicholas Fairfax, Mr. John Baxter, Mr. Thomas Dorrel, captain John Hill, Mr. John Medcalfe, and Mr. William Saire. Many of these are said to have been gentlemen of fortune, and most of the adventurers, if not all of them, were Roman Catholics.

They sailed from Cowes, in the Isle of Wight, on the 22d of November, 1633, and taking the old route by the Azores and West Indies, stopped on the islands of St. Christopher's and Barbadoes, where they staid some time, most probably for the purpose of timing their arrival in the Chesapeake in the most favourable season of the year for colonisation in that climate. It was, therefore, the 24th of February following, (1634, new style,) when they arrived off Point Comfort, in Virginia. Here, in consequence of recommendatory letters from the king, they met with all possible assistance from the governour of Virginia; and on the third of March, proceeded from thence to Patowmack river. Governour Calvert, not being apprised, perhaps, of any former names appropriated to the two capes or points of land at the mouth of the Patowmack river, called the south point St. Gregory's, and the north point St. Michael's; but, as they are both now known by other appellations, the southern being called Smith's point, from the celebrated founder of Virginia, captain John Smith, and the northern, Point Look-out, it is probable that they had received

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1633.

Their departure from England, and arrival in the Chesapeake.

CHAP. these denominations before the arrival of the Mary-
 I. land colony.*

1634.

They ex-
 plore the
 Patow-
 mack.

Sailing up the Patowmack about fourteen leagues, they came to an island called *Heron* island, and anchored under another neighbouring isle, to which they gave the name of *St. Clements'*.† Here the governour landed, and setting up a cross, in the Roman Catholic manner‡, took formal possession of the country—"for our Saviour, and for our sovereign lord the king of England." In order to make discoveries, the governour here left his ships, and taking two boats, or pinnaces as they were then called, proceeded up the Patowmack about four leagues,

* The charter refers to a place called *Cinquack*, "situate near the mouth of the Patowmack," on the south side thereof; but I do not find this name mentioned in the modern maps of either Virginia or Maryland. From the description of it in the charter, it would appear to be the same as *Smith's Point*.

† These names do not appear in either *Griffith's* map of Maryland, or *Madison's* of Virginia, the two most modern. In Griffith's map an island is placed off *Clement's* branch or river, which empties into the Patowmack, and which is there called *Blackstone's* island; but in Madison's map, *Blackstone's* island is placed higher up the Patowmack. It is most probable, however, that the island opposite to the mouth of *Clement's* branch, is the island to which at this time, they affixed the name of *St. Clement's*. In a loose estimation, it will nearly answer the distance mentioned up the Patowmack; fourteen leagues, or forty-two miles.

‡ It may be mentioned, by way of counterpart to this, that in this same year, (1634,) the New Englanders at Massachusetts, had carried their fanaticism to such a ridiculous extreme, that they cut the cross out of the king's colours under which they mustered, as being a relique of anti-Christian superstition. Hutchinson's Hist. Vol. 1; p. 41. Robertson's Hist. of America, Vol. 4, p. 295, 296.

and landed on the south or Virginia side of the river, but found that the Indians had fled from them through fear. He thence still proceeded up the river about nine leagues, and came to an Indian town called Patowmack town;* where the chief, called the *Werowance*,† being an infant, the territory was governed in his minority, by his uncle, whose name was *Archihan*. By him they were received in a very friendly manner. From this town they sailed up the Patowmack a considerable distance, estimated by them at about twenty leagues, to *Piscataway*; where they found many Indians assembled, and among them an Englishman, captain Henry Fleet, who had lived there several years, in great esteem with the natives. Through the influence of captain Fleet, the *Werowance* or chief of the tribe there assembled, was prevailed upon to go on board the governour's pinnace. The governour asked him, whether he was willing, that he and his people

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* The historians from whom this account is taken, do not say on which side of the Patowmack this town was; whether in Virginia or Maryland. If in the latter, it was, most probably, situated somewhere near Cedar point, or Pickawaxen creek, in Charles county.

† The word *Werowance*, seems to have been in use also with the Indian tribes of Virginia. The emperor Powhatan is represented as applying the appellation of *Werowance* to himself. See Burk's Hist. of Virginia, Vol. 1, p. 117, 137. It appears to have signified among the Indians—the king, or chief, or head-man of the tribe or nation. The infancy of this *Werowance*, above-mentioned, seems to disprove what is alleged by some writers, that among the American Indians, monarchy is always *elective*. See Mr. Charles Thompson's note (5,) to Jefferson's Notes. Appendix.

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should settle in his country, in case they found a place convenient for them. The Werowance replied, "I will not bid you go, neither will I bid you stay, but you may use your own discretion." The Indians on shore, finding that the Werowance staid on board longer than they expected, crowded down to the water-side, to look after him, fearing that the English had killed him; and they were not satisfied till he showed himself, to appease them.

The governour, on reflection, thinking that it would not, perhaps, be so advisable to settle so high up the river, in the infancy of the colony: and influenced somewhat, probably, by the cautious answer of the Werowance, determined to seek for a settlement further down the river. He, therefore, returned down the Patowmack, to St. Clement's isle again, taking captain Fleet with him. They then proceeded to a small river on the north side of the Patowmack, within four or five leagues of its mouth, which the governour called St. George's river. Sailing up this small river about four leagues, they came to an Indian town, called by the natives *Yoamaco*,* from whence the tribe here inhabiting, were called *Yoamacoes*.

The reader will recollect, that it has been before mentioned, that Powhatan's territories, over which he was emperor or grand chief, was said to extend along the lowlands upon the Chesapeake, from Cape

* This town is by some, (See Kilty's Landholder's Assistant, p. 14, called *Yaocomico*: but I find the name spelt as above in the histories, from whence what is here related is taken.

Henry to the mouth of the Patuxent, in Maryland ; and that his empire consisted of at least forty different tribes.* As governour Calvert, in his present exploration of the Patowmack, found, it seems, several distinct independent chiefs, called Werowances, it is probable, that they were the chiefs of as many distinct tribes, who formerly composed a part of that grand confederacy, which had existed under Powhatan ; called, from him, The Powhatan Confederacy, in contra-distinction to the two other grand confederacies, denominated the Manahoacs and the Monacans. But, as Powhatan had now been dead some years, it does not appear clearly, whether his successor was, at the time of the arrival of our colonists, the grand chief or emperor of the whole of the former Powhatan confederacy, or whether the Yoamacoes considered themselves as belonging to that confederacy, and subject to Opitchapan, who was Powhatan's successor.

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The governour, having landed here, entered into a conference or treaty with the Werowance, and acquainted him with the cause of his coming ; to which the Indian said little, probably not wishing to encourage a settlement among them ; but, inviting him to his cabin, he entertained him as kindly as he could, and at night gave him his own bed to lie on. The next day he showed him the country ; and the governour, determining to make the first settlement here, sent orders to the ship and boats to

The governour
fixes upon
St. Mary's
for their
first settlement.

* See Mr. Charles Thompson's note (5,) in the Appendix to Jefferson's Notes on Virginia. Also, Burk's Hist. of Virginia, Vol. 1, p. 112.

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come to him. To pave the way to his peaceable admission into the country, he presented the Werowance, and principal men of the town, with some English cloth, axes, hoes, and knives, which they accepted with pleasure, and freely consented that he and his company should dwell in one part of their town, reserving the other for themselves. Those Indians who inhabited that part which was assigned to the English, readily abandoned their huts to them. The natives further agreed to leave the whole town to the English, as soon as they could gather their corn; which they faithfully performed: and it was further stipulated, that until that time, the two nations should live in a friendly manner together. If any injury was done on either part, the nation offending was to make satisfaction. The governor then, on the 27th of March, 1634, caused the colonists to land, and according to the agreement, take possession of the town, which they named *St. Mary's*.

Circumstances favourable to them.

A circumstance is mentioned to have occurred at this time, which very much facilitated this treaty with the Indians. The Susquehanocks, who lived about the head of the bay, were in the practice of making incursions on their neighbours, partly for dominion, and partly for booty; of which last, women were most desired by them. The Yoamacoes, fearing these Susquehanocks, had, a year before the Maryland colony arrived, resolved to desert their habitations, and remove higher into the country. Many of them were actually gone, and the rest were preparing to follow them, about the time when

the English arrived : so that the voluntary surrender of their town is easily accounted for.

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I.

The first thing the governour caused to be done after the colonists were landed, was to erect two buildings, one for a guard-house, and the other for a store-house. Some of the colonists he also set to work, in making preparations for the planting of corn. In a few days afterwards, the governour received a friendly visit from Sir John Harvey, then governour of Virginia. From this circumstance it may be inferred, that however unfavourably the historians of Virginia may have represented the character of this governour, he did not enter into the opposition which had been excited in that province against lord Baltimore's charter, and the settlement of the Maryland colony. We are not informed of any material incidents relative to his visit. While he remained there, governour Calvert received also, the visits of several Indian Werowances, from the interior parts of the country ; among others, came the king of Patuxent, who had formerly been a prisoner to the English, in Virginia. To please these Indians, the government made an entertainment on board of the ship then at anchor in the river : the king of Patuxent was placed at the table, in a kind of state, between the governour of Virginia and the governour of Maryland. But, an incident occurred, which threatened to destroy the pleasure of the feast : a Patuxent Indian coming on board, and seeing his king thus seated, started back, and refused to enter into the cabin, supposing that his king was confined there as a captive ; and would have leaped overboard,

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Proceed-
ings of
the colo-
nists after
landing.

CHAP. I. had not the king himself come and satisfied him, that he was in no danger.

1634.

The store-house being finished, and it becoming necessary to unload the ship, and bring the stores for the colony on shore, the governour, thinking that doing it with a little pomp and state would impress the natives with respect for the colonists, ordered it to be done with as much solemnity as they could. The colours were brought on shore, and the colonists were all paraded under arms. Volleys of musquetry were fired, which were answered by discharges of cannon on board the ship. The two kings or Werowances of Patuxent and Yoamaco, being both present at this exhibition, with many other Indians of Yoamaco, the former took that occasion to advise the Indians of Yoamaco to be careful to keep the league they had made with the English. He remained in the town several days afterwards; and it is said, that when he took his leave, he made this remarkable speech to the governour: "I love the English so well, that if they should go about to kill me, if I had so much breath as to speak, I would command the people not to revenge my death; for I know they would not do such a thing, except it were through my own fault."*

Great harmony between the natives and colonists.

During the remainder of the year, while the English and Indians lived in St. Mary's together, according to their stipulation, the utmost harmony appears to have prevailed among them. The natives went every day, to hunt with the "new comers,"

* Oldmixon's British Empire in America, Vol. 1, p. 104, 188. Mod. Univ. Hist. Vol. 40, p. 467.

for deer and turkies ; which, when they had caught, being more expert at it, they either gave to the English, or sold for knives, beads, and such trifles. They also supplied them with fish in plenty. As a certain mark of the entire confidence, which these unsuspecting people placed in the colonists, their women and children became, in some measure, domesticated in the English families.

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1634.

We have here to express a regret, that the loss of most of the early records of the province, in about ten years after this period, during the civil commotions which agitated the mother country, and had extended to the colonies, has irreparably deprived us of other interesting particulars of the first transactions of the Maryland colony.*

The arrival of the colony in the early part of the year, was attended with such fortunate circumstances, that we cannot but suppose, that it was intentionally so done, in order to have time to erect habitations against the succeeding winter, and to raise sufficient corn for their next year's subsistence. It seems, however, that they had taken the precaution to bring along with them from Barbadoes, an additional supply of Indian corn, beyond the flour and bread of their English stores. They had, very judiciously, preconcerted their departure from England, so as to pass the winter months in the West Indies, and by that means to arrive in the colder latitude of the Chesapeake at the commence-

* Captain Richard Ingle, who associated with captain Clayborne, seized the records of the province in 1644, and carried them to Virginia. Most of them were lost or embezzled. See Bacon's preface to his edition of the Laws of Maryland.

CHAP. ment of the vernal season. They availed themselves
 of this advantage, by planting Indian corn at the
 1634. proper time of the year, in the grounds bordering
 on the town, which had been already cleared by the
 Indians. Their crops proved so luxuriant, that in
 the next year, or in the year after, it is said they
 exported ten thousand bushels of Indian corn to
 New England, to purchase salt fish and other pro-
 visions.*

Inter-
 rupted by
 Clayborne
 and his
 party.

From concurrent circumstances, and indeed from
 the assertions of historians, we are induced to sup-
 pose, that among the first causes which tended to
 disturb this harmony between the English and na-
 tives, were the improper insinuations circulated
 among the latter by captain William Clayborne and
 his party. They most unjustly and falsely endea-
 voured to create a belief among the Indians, that
 the Maryland colonists were Spaniards, and enemies
 of the English in Virginia; probably availing them-
 selves, in proof thereof, of the similitude in their
 religious ceremonies. Clayborne had, it seems,
 prior to the arrival of governour Calvert and his
 colony, settled himself, with some others, on the
 isle of Kent, which is situated in the Chesapeake,
 higher up than St. Mary's, and within the lines of
 the lord Baltimore's charter. This he had done in
 virtue of his license to traffic with the natives, and
 thereupon claimed a right to the property of the
 soil, not only of this island, but of another settle-
 ment which he had also fixed at the mouth of the
 Susquehanna. Lord Baltimore, perhaps apprized

of these circumstances before the emigration of his colony, had given orders, that if Clayborne would not submit to his government, he should be seized and punished.* He was not, however, taken; but being provoked that the lord Baltimore had obtained a grant, which included these places to which he had been accustomed to trade, and where he had now made some settlements, he sought all the means in his power to defeat the success and prosperity of the colony at St. Mary's. Among those means, was this ungenerous and cruel attempt to set the savages at war upon this infant colony. This ridiculous suggestion was at first believed by the simple natives, and suddenly they withdrew their company from St. Mary's. Our colonists were then employed in erecting comfortable habitations for themselves, in and about the town; but, alarmed at this alteration in the behaviour of the Indians, they ceased from the work on their buildings, and betook themselves to the erection of a fort for their security; which, it is said, they accomplished in about six weeks, and then returned again to their employments in finishing their houses. In a short time, however, the Indians became sensible of this deception, and resorted again, as formerly, to the colony.†

* The 12th and 13th sections of the charter, seem to have authorised the exercise of martial law in such cases.

† Oldmixon's British Empire, Vol. 1, p. 138, 139. Mod. Univ. Hist. Vol. 40, p. 468. About this time, a commission was issued by the king, to archbishop Laud, and divers other lords spiritual and temporal, (therein named,) vesting in them powers of government over all the English colonies already

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I.

1634.

Clayborne
resorts to
open mili-
tary force.

Clayborne, however, was not content with this secret mode of annoying the colony. He resorted to open military force in his opposition to lord Baltimore's government. Early in the year 1635, he granted his special warrant or commission, under his hand, to a certain Ratcliffe Warren, then commonly known as lieutenant Warren, to seize and capture any of the pinnaces or other vessels belonging to the government or colonists at St. Mary's; and in pursuance thereof an armed pinnace or boat belonging to Clayborne, was fitted out for that purpose, manned with about fourteen men, among whom was a certain Thomas Smith, gentleman, who appears to have been second in command, next to Warren, on this expedition. The government at St. Mary's, probably apprized of these measures of Clayborne, immediately equipped also two armed pinnaces or boats, which sailed under the command of Thomas Cornwallis, esq., one of the assistants or commissioners before-mentioned. These two armaments met, it seems, some time in April or

planted or to be planted, not only in political, but in ecclesiastical matters. It seems to have been styled in common parlance, The Board of Lords Commissioners for Foreign Plantations. See it in the original Latin, in Hazard's Collections, Vol. 1, p. 345, and in English in Hutchinson's Hist. of Massachusetts, Vol. 1, appendix, No. IV.; but these two copies vary in the names of one or two of the commissioners, and somewhat also in the date of it. It does not appear to have ever had any operation with respect to the Maryland colony, and was probably intended more particularly against that of Massachusetts; but the approach of the civil wars in England, shortly afterwards, must soon have rendered it a dead letter, even as to that province.

May of this year, 1635, in either the Pocomoke or Wighcomoco rivers on the eastern shore of the province,* where a battle commenced between them, by Clayborne's men firing first on Cornwallis's boats, as alleged in the proceedings of the assembly in this case.† Cornwallis immediately returned the fire; and the result was, that lieutenant Warren and two of his men were killed, and one of Cornwallis's men. Clayborne's boat and men, it would seem, were taken; and as Thomas Smith, gentleman, was probably the next in command or principal person, after the death of Warren, he was afterwards tried for the offence by the assembly, as will presently be further noticed.‡ Clayborne, before

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1635.

* There were two indictments found before a county court, held at St. Mary's on the 12th of February, 1637, (old style), upon which Thomas Smith and others of Clayborne's men, appear to have been arraigned and tried by the assembly. In one of which indictments the offence is stated to have been committed "in the river Pocomoque, on the eastern shore, on the 23d of April, in the year 1635." In the other indictment, the offence is laid or stated to have been committed "in the harbour of great Wiggomoco, in the bay of Chesapeake, on the 10th day of May, in the year of our Lord 1635." Whether they were two distinct engagements between the two parties does not appear certain. The murder of William Ashmore, one of Cornwallis's men, seems to be the gist of the offence in both indictments. From which it might be inferred, that there was only one battle; and Clayborne, in his subsequent petition to his majesty, mentions but one engagement.

† It is proper to mention here, that Clayborne, in his petition, alleged that Cornwallis and his men fired first on his boat, and that they had taken his pinnaces and boats, and still detained them. See his petition hereafter-cited.

‡ Provincial Records, entitled "Council Proceedings from 1636 to 1644."

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I.

1635.

The lord
proprietor's in-
structions
relative to
grants of
lands.

1636.

this, had fled for refuge to Virginia, and commissioners were sent by the governour of Maryland to the governour of Virginia (Hervey) to reclaim him as a criminal against the laws of Maryland; but Hervey thought it proper to send Clayborne, with the witnesses, to England.*

In this situation of constant danger from the savages, and actual warfare with their own countrymen, it could not be expected that the colonists had as yet, in a little more than a year from their first landing, extended their settlements to begin their small town at St. Mary's. The lord proprietor, however, had not forgotten to make arrangements for a more dispersed occupation of the country. There is strong evidence to presume that written propositions or *conditions*, upon which the colonists were to emigrate, had been "propounded" to them, before their departure from England; but as these are not now to be found among the records of the province, it is probable that the instrument of writing containing them was either among those lost or embezzled by Ingle and Clayborne, as before-mentioned, or it was never placed on record. Be that as it may, his lordship, in the year 1636, considered it proper to send to his brother, the governour, or as he is therein styled, "his lieutenant-general of the province of Maryland," "Instructions," relative to grants of land, to be made to the several colonists or "adventurers," as they are therein termed, "for the planting of his province of Maryland." As this instru-

* Burk's Hist. of Virginia, Vol. 2. p. 40.

ment of writing* contains the outlines of his lord-
 ship's plan for parcelling out the lands of his pro-
 vince, in pursuance of his charter, and therein de-
 velopes the mode of colonisation subsequently pur-
 sued by him, it will be proper here to state the sub-
 stance of it in as concise a manner as it will admit.

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I.

1636.

After referring in the preamble to former agree-
 ments heretofore propounded and promised by him;
 for the grants of land to the adventurers, he autho-
 rises his brother and lieutenant-general, or any
 other his lieutenant-general there for the time being,
 to "cause to be made under the great seal of the
 province, unto every *first* adventurer for every five
 men, aged between sixteen and fifty years, which
 such adventurer did bring into our said province, to
 inherit and plant there, in the year 1633,† and un-
 to his heirs forever, a grant of two thousand acres
 of land of English measure, for the yearly rent of
 400 lb. of good wheat, and to every adventurer
 which in that year did bring a less number than five
 men into the said province, of the ages aforesaid to
 inhabit and plant there, and unto his heirs forever,
 a grant of one hundred acres of land of like mea-
 sure for himself, and one hundred acres more for his
 wife, (if he brought any,) and for every servant,

Howlands
 were to be
 granted to
 the first
 adventu-
 rers in
 1633.

* It is by some called, "conditions of plantation;" and si-
 milar documents, to be found among the records, issued from
 time to time, have been generally so denominated; but "in-
 structions" is the appellation given them on this occasion in
 the Provincial Records; see "Council Proceedings from
 1636 to 1657."

† The first colonists left England, on the 22d of Novem-
 ber, 1633.

CHAP. and fifty acres for every child under the age of six-
 I. teen years, for the rent of 10 lb. of wheat yearly for
 1636. every fifty acres.

How to
the adven-
turers of
1634 and
1635.

“ And to every other adventurer, which hath ad-
 ventured to transport men into our province, of the
 age aforesaid, in the years 1634 and 1635, for every
 ten men which such adventurer did bring into our
 said province, in either of the said years, and to his
 heirs, forever, a grant of two thousand acres of
 land of the like measure, for the yearly rent of 600
 lb. of good wheat, and to every other adventurer,
 which in either of the said years, did bring a less
 number than ten men as aforesaid, and to his heirs,
 forever, a grant of one hundred acres of land (of
 like measure) for himself, and one hundred acres
 for his wife, (if he brought any,) and for every ser-
 vant one hundred acres, and for every child under
 the age of sixteen years fifty acres, for the yearly
 rent of 10 lb. weight of wheat for every fifty acres-

How to all
others, af-
ter the
year 1635.

“ And to every other adventurer, which hath ad-
 ventured to plant and transport any men into our
 said province, since the year 1635, or which at any
 time hereafter, shall transport any men of the age
 aforesaid, to inhabit and plant there until some other
 or further conditions of plantation, shall by us be
 propounded and published to adventurers, and an
 authentic copy of such conditions, by us signed and
 transmitted into our said province, for every five
 men which he or they shall so transport thither, and
 to his or her heirs, forever, a grant of one thousand
 acres of English measure, for the yearly rent of
 twenty shillings, to be paid in the commodities of
 the country, for every such thousand acres ; and to

every other adventurer, which within the time next
 afore-mentioned, hath or shall transport any number
 of persons less than five, a grant of one hundred
 acres of land for him or herself, and one hundred
 more for his wife, (if he brought any,) and as much
 for every man-servant, and fifty acres more for every
 child under the age of sixteen years; and for every
 maid-servant under the age of forty years, to his or
 her heirs, forever, for the yearly rent of twelve
 pence, for every fifty acres.

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I.

1636.

“And we do further authorise you, that every
 two thousand acres, and every three thousand acres,
 and every one thousand acres of land so to be grant-
 ed, unto any adventurer or adventurers, be erected
 and created into a mannor, to be called by such
 name as the adventurer or adventurers shall de-
 sire.

Manors of
 1, 2, and
 3,000
 acres, to
 be cre-
 ated.

“And we do further authorise you, that you
 cause to be granted unto every of the said adventu-
 rers, within every of their said mannors respectively,
 and to his or their heirs, a court-baron and court-
 leet, to be from time to time held within every such
 mannor respectively. And to the end you may the
 better be informed, in what manner to pass every
 such grant, court and courts as aforesaid, according
 to our intention, we have sent unto you, under our
 hand and seal, a draught of a grant of a mannor
 court-leet and court-baron, and a grant of a free-
 hold; which precedents you are to follow, chang-
 ing only the adventurer's names, the rents and con-
 ditions of plantation, as the case shall require: for
 doing whereof, this shall be your sufficient warrant.

Courts-
 leet and
 courts-
 baron.

CHAP. So we bid you heartily farewell. Given at Ports-
I. mouth, the eighth of August, 1636.
1636.

“Signed,

“C. BALTIMORE.”*

It will readily be perceived, that these instructions, or conditions of plantation, were well calculated to induce men of some property in England, who were able to bear the expense of transporting servants and dependents, to emigrate to this province. It is true, that it was sketching out aristocratic features in the future government of the province, which, in other times, might have been supposed to operate in discouragement of emigration. But, it is to be remembered, that the colonists, for whom Maryland was formed as an asylum, being Catholic refugees, were accustomed to arrange themselves, according to the then politics of England, on the side of the supporters of the monarchy and aristocracy of the realm. This feudal mode of parcelling out lands by subinfeudation, was not, therefore, so horrible to them, as may appear to us at this day.† “The age of chivalry,” had not then quite past; and some faint remains of the reciprocal connexion between a lord and his vassals, might still be dis-

* See the Provincial Records, entitled, “Council Proceedings from 1636 to 1657,” p. 1.

† The feudal tenures then subsisted nearly in the same state as they are described in lord Coke’s Institutes, which were written and published but a few years prior to lord Baltimore’s charter of Maryland. The reader recollects, that the feudal tenures were not completely abolished, until within a few years after the restoration of Charles II, in 1660.

cerned in the structure of society, sufficient to in-
duce the dependents of a chief, to brave with him
the dangers of the ocean, the wilderness, and the
savage.

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1636.

One circumstance, however, discernible in this plan of colonisation, must attract approbation. The grants to the adventurers were to be, of an *indefeasible estate of inheritance in fee simple, to them and their heirs, forever*. Security in the absolute enjoyment of property, is the best corner-stone that can be laid in the foundation, which is to support the fabric of a free government. An humble feudal tenant, enfossed round with this rampart, might well consider his cottage as his castle; and might smile with regret at the delusion even of the well-meaning citizen, who delights in the uncertainty of revolutionary liberty.

In pursuance of these instructions, and correspondent also, with the charter, manors of lands were, in process of time, laid off in different parts of the province; and some of them appropriated or *reserved* for the lord proprietor's own particular use, others again were erected by the special orders of the lord proprietor, for the benefit of his relations or particular friends, with special conditions and privileges, and others also so denominated and granted to individuals, according to the terms of these instructions, or conditions of plantation, as they so came entitled, for the transportation of colonists or settlers into the province. But, although the power and right of holding courts-baron and courts-leet, might have been inserted in some, or all of those grants of manors, yet we are told, from good autho-

CHAP. rity, that no memorial appears on the records of the
 I. province, of any practical use of either of these
 1636. kinds of courts.*

Grants of
 small lots
 in the
 town of St.
 Mary's.

As it would not have been safe, at this period of time, to have commenced a scattered population of the country, it was very properly directed by his lordship, soon after the foregoing instructions, by letter, to his brother and lieutenant-general, bearing date the 29th of August, 1636, that he should "pass in freehold, to every of the first adventurers that shall claim or desire it, and to their heirs, ten

* See the Landholder's Assistant, p. 93; a very judicious work, lately published by Mr. John Kilty, register of the land office for the western shore of the state of Maryland. But, I find in the "Council Proceedings from 1636 to 1657," p. 23, a commission there recorded, for holding a court-leet in the isle of Kent, directed "to Robert Philpot, William Cox, and Thomas Allen, of the isle of Kent, gentlemen, to be justices of the peace within the said island, to hold a court-leet in all civil actions not exceeding 1200 lb. tobacco; and to hear and determine all offences criminal, within the said islands, which may be determined by any justice of peace in England, not extending to the loss of life or member. Given at St. Mary's, February 9th, 1637. Witness, Leonard Calvert." As proceedings, most probably, took place under this commission, there must, of consequence, have been some written memorials of those proceedings once existing, though probably now lost. As the business of courts-leet in England, have long ago been gradually absorbed by the courts of quarter sessions for the shire or county, so with us, it is probable, that if any courts-leet or courts-baron were ever held in the province, the county courts at a very early period, swallowed up their jurisdictions. To trace these transfers of judicial power, would at this day be an unnecessary, if it was a possible, task, except it be to throw some light upon the history of those times.

acres of land within the plots assigned, or to be assigned for the town and fields of St. Mary's, for every person that any of the said adventurers transported or brought into Maryland, according to their conditions first published, and five acres of land to every other adventurer, for every other person which he hath or shall transport thither, since that time of the first plantation, until the thirteenth day of August, 1638."

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I.

1636.

Although king Charles I, had, but a few years before he granted the charter of Maryland to lord Baltimore, dissolved his parliament, and had at that time formed the resolution, as some historians allege, of never calling another, and of governing without them, yet we find very strong provision made in that instrument of grant, for that important ingredient of a free government,—a representative legislature. In the seventh section of that charter, the king "grants unto the said baron and to his heirs, *for the good and happy government of the said provinces*, free, full, and absolute power, to ordain, make, and enact laws, of what kind soever, according to their sound discretions, whether relating to the public state of the said province, or the private utility of individuals, *of and with the advice, assent, and approbation of the free-men* of the same province, or of the greater part of them, *or of their delegates or deputies, whom we will, shall be called together for the framing of laws, when, and as often as need shall require*, by the aforesaid baron of Baltimore, and his heirs, and in the form which shall seem best to him or them, and the same to publish and duly to execute."

The nature of the first form of government of the colony.

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But, in the eighth, or next section immediately following, a clause is inserted, which by a latitude of construction, might possibly be interpreted to give powers repugnant to the mode of legislation prescribed or granted in the former. A reason for the clause is first given by way of preamble : “ and forasmuch as in the government of so great a province, sudden accidents may frequently happen, to which it will be necessary to apply a remedy before the freeholders of the said province, their delegates, or deputies, can be called together, for the framing of laws ; neither will it be fit, that so great a number of people should immediately on such emergent occasion, be called together, we therefore, for the better government of so great a province, do will and ordain, and by these presents, for us, our heirs and successors, do grant, unto the said now baron of Baltimore, and to his heirs, that he and they, by themselves, or by their magistrates and officers, &c. *may, and can make and constitute fit and wholesome ordinances*, from time to time, to be kept and observed within the province aforesaid, as well for the conservation of the peace, as for the better government of the people inhabiting therein, and publicly to notify the same to all persons whom the same in any wise do, or may affect. Which ordinances, we will to be inviolably observed within the said province, under the pains to be expressed in the same, *so that the said ordinances be consonant to reason, and be not repugnant nor contrary, but (so far as conveniently may be done), agreeable to the laws, statutes, or rights of our kingdom of England :* and so that the same ordinances do not, in any sort, ex-

The first of these is the fact that the
 government has been successful in
 its efforts to reduce the number of
 persons who are unemployed. It has
 been able to do this by a variety of
 means, including the creation of new
 jobs, the improvement of existing
 ones, and the provision of training
 for the unemployed. The result has
 been a significant reduction in the
 number of persons who are unemployed,
 and a corresponding increase in the
 number of persons who are employed.
 This is a very important achievement,
 and it is one which should be
 noted and praised. It shows that the
 government is capable of doing what
 it sets its mind to, and it is a
 testament to the skill and ability of
 its leaders. It is also a testament to
 the power of the government to
 bring about change, and to the
 importance of the government in
 the lives of its citizens.

tend to oblige, bind, charge, or take away the right or interest of any person or persons, of, or in member, life, freehold, goods or chattels."

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This was entirely consonant to those unfortunate maxims which Charles had adopted about this time, for the rules of his regal conduct. That his orders in council, and proclamations thereupon, should be deemed the legal and constitutional substitutes of laws, which ought to have been enacted by the three estates of the realm in parliament assembled, was a principle, on which, as a dangerous rock, his subsequent fortunes split.* But it must be acknowledged, that qualified as this principle is, by the limitations at the end of the clause in this eighth section of the charter, it is difficult to conceive, wherein a case could occur, in which an ordinance of the lord proprietor or his governour, could possibly be made so as not "to oblige, bind, charge, or take away the right or interest of some person or persons, of, or in member, life, freehold, goods, or chattels."

This leads us, however, to the notice of an instrument of writing, called in the body of it, "an ordinance," made by the lord Baltimore, in England, in the early part of the year 1637, bearing date the 15th of April, 1637, containing instructions to his brother Leonard Calvert, esq. for the regulation, government, and settlement of the province. But, as he therein constitutes and appoints him to fill several offices in the province, it would seem more properly to fall under the denomination of a com-

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An ordinance for that purpose.

* Hume's Hist. of England, chap. 41.

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mission ; in which, after constituting him governor, lieutenant-general, chief captain and commander, as well by sea as by land, of his province, and the islands to the same belonging, and appointing him also, chancellor, chief justice, and chief magistrate within the said province, until officers and ministers of justice should be appointed, he proceeds (to what seems to be the most important part of the commission,) to grant to him power and authority also, “ to assemble the freemen of our said province, or their deputies, at St. Mary’s, upon the twenty-fifth day of January next ensuing the date hereof, and then and there to signify to them, that we do disassent to all the laws, by them heretofore, or at any time made within our said province, and do hereby declare them to be void ; and further, to show unto them the draught or copy of all such laws and ordinances for the good government of our said province, as we shall before that time transmit to you, with our assent for enacting the same ; and likewise, if the said freemen, or their deputies, so assembled, shall approve and consent unto all the said draughts or copies of the said laws and ordinances, in manner as we send them over, to publish the same as laws, under the great seal of our said province, that the people of our said province may take the better notice thereof.”

He also therein, grants power to the said governor, “ after dissolving the present assembly, to call another, and to propound and propose other laws, to be assented to and confirmed, if approved by his lordship himself.”

Also, general power “ to call and dissolve assem-

blies, and also to make ordinances, edicts, and proclamations, with reasonable pains and penalties therein, not extending to the taking the right or interest of any person or persons, of, or in their life, member, or freeholds, goods, or chattels.”

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Also, power to appoint places for public ports for shipping, &c. and places for fairs and markets, on certain days.

Also power to grant pardons, &c. not extending to high treason;—

Also, to grant commissions for the execution of justice, and for the dividing and bounding of lands, and also to make grants of lands being thereby also made keeper of the great seal.

Also, by the same commission, three persons, to wit, Jerome Hawley, esq., Thomas Cornwalleys, esq., and John Lewger, gentleman, were appointed “to be of our council of and within our said province, with whom our said lieutenant shall from time to time advise,” &c.

Also power given to the said lieutenant “to inquire and determine, and finally to judge of and upon all causes criminal whatsoever, to give sentence or judgment in or upon the same, (excepting only where the life or member of any person shall or may be inquired of or determined,) and to award execution on such sentence or judgment; and also to hear and determine all civil causes, both in law and equity, concerning any goods, chattels, contracts, debts, or other personal or mixt action or actions, suit or suits whatsoever, in the most summary and equal way that he may according to the orders, laws, and statutes of that our said province,

CHAP. already made and established or hereafter to be
 I. made," &c. and in default of such laws, &c. then
 1637. according to the laws and statutes of the realm of
 England as near as he may or can."

"Also, when the life, member, or freehold of any person shall happen to come in question, full power to the said lieutenant or to such persons as we shall from time to time appoint to be of our council within the said province, or to any three of them, whereof our said lieutenant always to be one, to inquire and determine according to the laws of our said province, and finally to give sentence and judgment thereupon, and to award execution accordingly."

By the same instrument John Lewger, gentleman, was appointed "secretary and keeper of the acts and proceedings of our lieutenant and council for the time being, and for the doing and recording of all grants of land, or of officers within the province."

Also power was given to the governour to appoint a deputy in his absence, or to the council, on the failure of the governour to do so.*

The most remarkable part of the foregoing commission seems to be, that which relates to the calling an assembly on the twenty-fifth of January next, for the purpose of signifying to them his lordship's *disassent* to some laws which had been before that time enacted by them. Although no memorial of any proceedings of any assembly remains upon the records of the province, prior to that which was

* See the Provincial Records, entitled "Council Proceedings from 1636 to 1657," p. 11.

called and held on the 25th of January, 1638, (1637 CHAP.
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1637. old style), according to the directions contained in the foregoing commission, yet it seems that an assembly had been held at St. Mary's in 1635,* and, as is to be inferred from the foregoing commission, had enacted divers laws, to which, it seems, the lord proprietor thought proper to refuse his assent, and to declare them void. What those laws were, or what were his lordship's reasons for refusing his assent to them, we are not informed. It would seem at first, as if his lordship meant to contend for such a construction of the seventh section of the chapter, as if it exclusively invested in him the right and power of first propounding the laws to the assembly, for their advice, assent, and approbation," and that the assembly had no right or privilege of originating or framing laws. Something like this seems to have been hinted, at divers times during the reigns of king James and king Charles I, by the advocates for extending the royal prerogative, and that the only use of a house of commons was to grant money to the crown. This subject, however, will be further explained, when we come to notice the proceedings of the assembly, which was directed to be called on the twenty-fifth of January.

In the mean-time, it will be necessary to mention some intervening incidents of the present year; among which a proclamation issued by king Charles, bearing date "the last day of April," 1637, "against the disorderly transporting his majesty's subjects to

Proclamation in England against emigration.

* Holmes's Annals, Vol. 1, p. 306, who cites Chalmers's Annals, Vol. 1, p. 232.

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the plantations within the ports of America," seems to claim some notice. By this proclamation the officers of the several ports in England, Wales, and Berwick, were commanded not to permit any persons, being subsidy-men, or of the value of subsidy-men,* to embark for any of the plantations, *without leave* from his majesty's commissioners for plantations,† first had and obtained, nor any persons under the degree or value of subsidy-men, without an attestation or certificate from two justices of the peace, living next the place where the party lately then before dwelt, *that he hath taken the oaths of supremacy and allegiance*, and like testimony from the minister of his conversation and *conformity to the orders and discipline of the Church of England*; and that such officers should return to his majesty's said commissioners of plantations every half-year a list of the names and qualities of all such persons, as shall from time to time be embarked in any of the said ports for any of the said plantations.‡ Although it is evident that this proclamation would affect the emigration of English Catholics to Maryland, if put in execution against them, yet it would seem, from the preamble to it, to have been principally intended to check the emigration of the Puritans to New England, referring to the transporta-

* That is, men, who were liable to pay the tax called a subsidy.

† These seem to be the commissioners before-mentioned p. 235, viz. archbishop Laud and others.

‡ See the proclamation more at large in Hazard's Collections, Vol. 1, p. 421.

tion of "many idle and refractory humours, whose only or principal end is to live as much as they can without the reach of authority." It is probable that it was never enforced as to Catholics, or that they at all times could easily obtain a license to depart. Besides, the civil wars now approaching, soon rendered it ineffectual even as to the Puritans.

It seems to have been adopted as a proper policy to be observed in the infant state of the Maryland colony, borrowed perhaps from the same or a similar regulation in Virginia, that no person should be allowed to carry on any traffic with the Indians, without a formal, written license for that purpose. The late alarm created by the behaviour of the Indians towards the colonists at St. Mary's, before-mentioned, might have, perhaps, dictated this regulation. We find, therefore, among the records of this year, that of a written license to Thomas Cornwallis, esq., bearing date the 30th of December, 1637, "to trade with the Indians for corn."*

It would appear also, that towards the latter end of this year the isle of Kent had been in some measure reduced to the obedience of the lord Baltimore. Clayborne had failed in his attempts to retain his possession of it by force, and had, as before-observed, been sent by the governour of Virginia to England, to seek what remedy he might have there. Measures seem, therefore, now to have been taken to put in force the civil authority of the lord proprietor over that island, as a part of his province. Accordingly a commission was granted by gover-

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Traffic
with the
Indians re-
gulated.

The isle of
Kent redu-
ced to lord
Balti-
more's go-
vernment.

* "Council Proceedings," from 1636 to 1657," p. 20.

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nour Calvert, to captain George Evelyn, bearing date the 30th of December, 1637, to be governour of the isle of Kent,* authorising him to choose six of the inhabitants thereof for his council, and giving him power to call a court or courts, and in the said courts, to hold pleas in civil cases not exceeding 10*l*. sterling; and jurisdiction in criminal cases over all offences which may be heard by justices of the peace in their sessions in England, not extending to life or member, and to appoint officers for the execution of justice and conservation of the peace there, with allowance of such fees as are usually belonging to the same or the like offices in Virginia.†

1638.

The colo-
nists be-
gin to ex-
tend their
settle-
ments
into the
country.

The colonists, it seems, had now begun to extend their settlements beyond the limits of the town of St. Mary's. In a commission to Robert Vaughan, of St. George's hundred, bearing date the 5th day of January, 1637, (1638, new style,) appointing him constable of the said hundred,‡ there is the follow-

* Evelyn must have been a man of some note at this time in the province, as it appears from the land records of the province, that he was the owner at this time of "the manor of Evelinton, in the baronie of St. Mary's;" (see Kilty's Landholder's Assistant, p. 68.) A manor could not be less than one thousand acres, according to his lordship's instructions of 1636, before-mentioned.

† "Council Proceedings from 1636 to 1657," p. 20.

‡ Although the office of constable is now by us, and might be then in England, thought to be an office below the dignity of a gentleman; yet in the then situation of the province, it might with propriety be estimated an office of honour. That Mr. Vaughan was then considered in the rank of a gentleman, we may infer from his subsequent promotions, particularly

ing preamble to it: "whereas the west side of St. George's river is now planted by several inhabitants, and is thought fit to be erected into a hundred, by the name of St. George's hundred," &c. The commission specifies his powers as the constable of that hundred, nearly in the same manner as the like commission in England, prescribing their common law-duties; but moreover particularly enjoins him, to make diligent search and inquiry, for persons who furnish the Indians or savages, with arms and ammunition.*

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I.

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As hundreds were the civil divisions of a county in England, we may infer, that all the parts of the country adjacent to the town of St. Mary's, inhabited by the colonists, were considered as forming a county, to which the name of St. Mary's was given; but whether any real limits were yet assigned and marked out as the boundaries of that county, does not appear. That a county was now so called, appears from a commission to John Lewger, esq., bearing date the 24th of January, 1637, (1638, new style,) appointing him conservator of the peace *within the county of St. Mary's*, with such powers as are usually exercised and executed by any justice of peace in England, &c. The same commission appoints him also, "commissioner in causes testamentary," to prove the last wills and testaments of persons deceased, and to grant letters of administration, &c. : it is addressed to him in the following

The county of St. Mary's organized.

from his being made commander of the isle of Kent county, under governour Stone, about the year 1650.

* "Council Proceedings from 1636 to 1657," p. 21.

CHAP. style—"to our trusty councillor John Lewger, se-
 I. cretary of our province of Maryland."* He had

1638. been appointed *councillor* and *secretary* by the com-
 mission of the 15th of April, 1637, before-mention-
 ed; in virtue of which office of *secretary*, it seems
 to have been the intent of that commission, to make
 him also, both principal clerk of the council and re-
 gister of the land-office. It appears from subsequent
 Mr. John records of the province, that Mr. Lewger had been
 Lewger. sent into the province from England, by the lord
 proprietor, as a man well qualified to assist his bro-
 ther in the administration of the government. He
 arrived there on the 28th of November, 1637, with
 his wife, and a son named John, about nine years
 old, together with three maid servants, three men
 servants, and a boy.† It would seem, therefore,
 that he was a man above the ordinary rank in so-
 ciety, both as to fortune and mental qualifications.

An assem-
 bly of the
 province
 called.

In pursuance of the lord proprietor's instructions,
 before-mentioned, of the 15th of April, 1637, for the
 holding an assembly, on the 25th of January next,
 the governour proceeded to some preparatory ar-
 rangements necessary thereto. Accordingly, about
 the first of January, 1637, (1638, new style,) he

* "Council Proceedings from 1636 to 1637," p. 23.

† See Kilty's Landholder's Assistant, p. 67. Although
 these are styled *servants* in the record, yet they might not all
 have been retained by him as *menial* servants, but persons
 imported or brought in with him at his expense, so as to en-
 title him to "rights" of land accruing from such importation,
 by virtue of the lord proprietor's instructions of 1636, before-
 mentioned. These particulars relative to Mr. Lewger, exhi-
 bit the early mode of colonising the province.

issued his warrant to captain Evelin, commander of the isle of Kent, as before-mentioned, reciting, that "whereas my dear brother, the lord proprietor of this province, hath, by his commission to me directed, in that behalf, bearing date at London, in the realm of England, the 15th day of April, 1637, appointed a general assembly of all the freemen of this province, to be held at his town of St. Mary's, on the 25th of January next; these are therefore, in his lordship's name, to will and require you, all excuses set apart, to make your personal repair to the fort of St. Mary's, on the said 25th day of January, then and there to consult and advise of the affairs of this province; and further, to will and require you at some convenient time, when you shall think fit, within six days after the receipt hereof at the farthest, to assemble all the *freemen* inhabiting within any part of your jurisdiction, and then and there to publish and proclaim the said general assembly, and to endeavour to persuade such, and so many of the said *freemen* as you shall think fit, to repair personally to the said assembly, at the time and place prefixed, and to give free power and liberty to all the rest of the said *freemen*, either to be present at the said assembly, if they so please, or otherwise to elect and nominate such, and so many persons, as they or the major part of them, so assembled, shall agree upon, to be the deputies or burgesses for the said *freemen*, in their name and stead, to advise and consult of such things as shall be brought into deliberation in the said assembly, and to enter all the several votes and suffrages upon record, and the record thereof, and whatsoever you shall do in any of

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the premises, to bring along with you, and exhibit it at the day and place prefixed, to the secretary of the province for the time being; and for so doing, this shall be your warrant.”*

* See “Assembly Proceedings from 1637 to 1658,” p. 1. As the word “freemen,” so often repeated in this warrant or writ, frequently also occurs in the early legislative proceedings of the province, and is moreover, an expression used in the charter, of material import in the political constitution of the province, it will be proper, that a correct idea should be annexed to it. In the translation of the charter, inserted in Bacon’s edition of the laws, it is used as the true signification of the words “*liberorum hominum*” of the original Latin. It is true, that in common speech at this day, the word “freeman” means a person who is not a servant or slave. But the words “*liberorum hominum*,” in the charter, must, I apprehend, have a more technical meaning, and be subject to the signification annexed to it by the rules of the common law. It will be recollected, that the feudal tenures then, at the time of making the charter, subsisted in considerable force; and as the charter was evidently framed upon feudal principles, these words ought properly to be interpreted in a feudal sense. Now the word “freemen,” as well as the Latin expression “*liberorum hominum*,” were, according to common law writers, cotemporary, or nearly so, with the date of the charter, understood as being synonymous to the word *freeholder*. Spelman, in his glossary, verb *homo*, says that “*homo liber*” is to be taken “*pro libero tenente*,” for a freeholder. The following sentence in *Magna Charta*, ch. 14: *Liber homo non amercietur pro parvo delicto, nisi secundum modum illius delicti*, is thus translated in Keble’s statutes at large: “a *freeman* shall not be amerced for a small fault, but after the manner of the fault.” Upon this lord Coke (2 Inst. 27,) has made the following comment: “a *freeman* hath here a special understanding, and is taken for him, *qui tenet libere*, for a *freeholder*.” Also in his comment on the statute of *Quia Emptores*, (2 Inst. 501,) he makes the same interpretation of the

It is not easy to determine, whether the isle of Kent was at this time considered as a county by itself, or a distinct territorial government, within

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words "libero homini." And again, in his 1 Inst. 58, a. he uses the words *freemen* and *freeholders* as synonymous terms, when applied to the tenants of a manor. It might possibly be objected, that inasmuch as the words "liberi tenentes," which literally signify *freeholders*, are used in the next succeeding section (the eighth,) of the charter of Maryland, and which words are, in the translation in Bacon, rendered *freeholders*, this variance in the terms used in the same instrument bespeaks a different sense of the words "liberorum hominum" in the preceding or seventh section. But by comparing the two sections together, it will be seen, that the words "liberi tenentes" in the eighth section, are used in reference to the "liberorum hominum" of the next preceding seventh section; which clearly implies, that they were considered as synonymous expressions. Hence it is to be inferred, that no inhabitant of the province was, at this period of time considered as a *freeman*, unless he was an owner of land therein; that is, a *freeholder*, and consequently not entitled to a seat in the house of assembly, unless he was such. It appears, indeed, from the 14th clause of the act of 1638, (1639, new style,) ch. 2, and the 26th bill of those *ingrossed* at the same session, but not *passed*, that the governour, as lieutenant-general of the lord proprietor, claimed the prerogative, probably as a part of the Palatinate Regalia, of summoning by special writ, "gentlemen of able judgment and quality," to the assembly, similar to the royal prerogative of England, of calling by writ to the house of peers; but it does not appear, that it was not requisite, that these "gentlemen" so summoned, should be freeholders. It is probable, however, that at this time, most of the inhabitants of the province, except such as were imported at the expense of others, were freeholders, or owners of land within the province. Although a right to a seat in the house of assembly, and a right to vote for a Burgess or delegate, or to constitute a proxy, appear to have been at this time one and the same right, dependent upon the same

CHAP. the lord Baltimore's jurisdiction, subordinate to the

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general government of the province. From the circumstance of captain Evelyn's having a council assigned him of six persons, as mentioned in his commission, before stated, of the 30th of December, 1637, it would seem to be of the latter.* However that was, yet it seems, that at this time any *freeman* thereof had liberty to repair in person to the assembly, and to be considered as a member thereof. Although the alternative was given them, by the foregoing warrant, of meeting together, and electing representatives to serve in the assembly, as at this day;† yet it would appear from the proceedings of this assembly, that the practical construction of the foregoing warrant was, that every freeman who did not choose to attend himself, might depute some one, who did attend as a member, to vote for him

qualifications, and attached to every *freeman* of the province, yet it would seem, that in process of time, when the population of the province increased, and it became inconvenient for every freeman to have a right to a seat in the house, (an inconvenience felt, and proposed to be remedied by the before-mentioned 26th bill of the session of 1638-9,) other persons besides freeholders, were by law admitted to the right of suffrage. It accordingly appears, by the act of 1716, ch. 11, that freemen, who were residents, and who had a visible estate of 40*l.* sterling," (though not freeholders,) were entitled both to vote and to be voted for; though it is probable, that this regulation had been adopted prior to the year 1716.

* But subsequently, in the year 1650, it was considered as a distinct county, sending one delegate to the assembly. See Bacon's Laws, the N. B. preceding chap. 1.

† This alternative seems to be authorized also by the seventh section of the charter, before-mentioned.

as his *proxy*, in the manner of the house of lords in England.* CHAP. I.

The assembly accordingly met on the 25th day of January, 1637, (1638, new style.) The lieutenant-general, (or governour,) appears to have taken the chair as speaker thereof, and the three gentlemen who composed his council, to wit: Jerome Hawley, Thomas Cornwallis, and John Lewger, esquires, sat with the others as individual members only, and not as constituting an upper house, as the council afterwards did, but in the manner of a Scotch parliament before the union. The commander of the isle of Kent, (Evelyn,) also took his

1638.

The first
assembly
of the
province
meet.

* Something like this constituted an article in the first form of government instituted by the New Haven colony, on their first settlement at Quinipiack or New Haven, in 1637-8, before their union with Connecticut. "All *freemen*, without summons, should meet once a-year, and vote in the election of officers; and such as cannot attend in person, may vote by *proxy*, or send their votes sealed." Hutchinson's Hist. of Massachusetts, Vol. 1, p. 82. This practice, adopted as we see in two of the earliest English settlements of North America, must have been derived from an usage in the house of lords in England. The principle, upon which the right of making a proxy prevails in the house of lords and not in the house of commons, is said to be, that the lords are supposed to sit in parliament in their own personal rights, and not as delegates or deputies of others, as the commons do. And, therefore, as a commoner in parliament was only a proxy or representative of another, he could not constitute a proxy in his place, according to an ancient maxim of law, *delegata potestas non potest delegari*, 4 Inst. 12, 1 Bac. Abr. 582. So allowing every freeman in Maryland to have a seat in the assembly, sitting there in his own personal right, he might make a proxy upon the same principle as a lord in England.

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I.

1638.

seat as a member. In the list of the members, some of whom are styled gentlemen, and some planters, the *hundreds* from which they came, are annexed to their respective names. It would appear, that some of the members sat as burgesses or representatives from hundreds ; others claimed and held seats in their own personal rights as freemen, and so far constituting, what is by some required to constitute, a true and real democracy, or an assemblage of all the free citizens of the state to make laws for themselves. It is true, that all the freemen of the province did not attend ; but it appears, that such as did not attend, either voted for some person in his hundred as a burgess or representative thereof, or authorised some member, as his proxy, to vote for him. Although *writs of summons*, it seems, had been issued to every freeman, individually, to attend, yet one of the first acts of the proceedings of the assembly, on the first day of their meeting, was to cause proclamation to be made, “ that all freemen omitted in the writs of summons, that would claim a voice in the general assembly, should come and make their claim.”

“ Whereupon claim was made by John Robinson, carpenter, and was admitted.”

A list was made of such freemen as were absent, and of the names of those members who attended, and were *proxies* for such absentees ; among which members, the three gentlemen who were councillors appear to have had the greatest number.*

* The proceedings do not specify, how such delegated authority to a *proxy* should be verified ; but we may suppose it

The house then proceeded to establish rules and orders to be observed during their session ; the substance of which was as follows :

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I.

1638.

“ Imprimis—The lieutenant-general, as president of the assembly, shall appoint and direct all things that concern form and decency, to be observed in the same ; and shall command the observance thereof, as he shall see cause, upon pain of imprisonment or fine, as the house shall adjudge.

“ Item—Every one that is to speak to any matter shall stand up, and be uncovered, and direct his speech to the lieutenant-general, as president of the assembly ; and if two or more stand up to speak together, the lieutenant-general shall appoint which shall speak.

“ Item—No man shall stand up to speak to any matter, until the party that spoke last before, have sat down ; nor shall any one speak above once to one bill or matter at one reading, nor shall refute the speech of any other with any contentious terms, nor shall name him but by some circumlocution ; and if any one offend to the contrary, the lieutenant-general shall command him to silence.

“ Item—The house shall sit every day at eight o'clock in the morning, and at two o'clock in the afternoon.

to have been by the production to the house of some written instrument, in the nature of a warrant of attorney. Although it is said, (Cunningh. Law Dict. verb. *proxy*,) that a peer of the realm must enter his proxy *in person*, on the journal of the house of lords ; yet, from the case that occurred in 1 Eliz. (as stated by lord Coke, 4 Inst. 12,) it might be done by an instrument of writing for that purpose.

CHAP.

I.

1633.

“ Item—The freemen assembled at any time, to any number above ten persons, at the hours aforesaid, or within one hour after, shall be a house to all purposes.

Item—Every one propounding any matter to the house, shall digest it at first into writing, and deliver it to the secretary,* to be read unto the house.

“ And it was ordered by the house, that these orders should be set up in some public place of the house, to the end all might take notice of them.”

The house met again on the next day, the 26th of January, at eight o'clock, according to regulation. Several persons came in, and “ claimed their voices as freemen ;” of which the following entries on the journal of the house, appear to be the most remarkable :

“ Then came Edward Bateman, of Saint Mary's hundred, ship-carpenter, and claimed a voice as freeman, and made Mr. John Lewger, secretary, his proxy.”†

Also, “ came John Langford, of the isle of Kent, gentleman, high constable of the said island, who had given a voice in the choice of Robert Philpot, gentleman, to be one of the burgesses for the freemen of that island, and desired to revoke his voice,

* From this we may infer, that the secretary of the province, Mr. Lewger, acted as clerk of this assembly, notwithstanding he was a councillor, and held moreover several other offices, and besides voted as a member of the house.

† This seems consonant to the practice of the house of lords in England, where a proxy must be made in the house *in person*, as before-mentioned.

and to be personally put in the assembly, and was admitted." CHAP. I.

The house then proceeded to the most important business of their session, the consideration of the laws transmitted to the colony by the lord proprietor. The draughts of the twelve first acts of them being read, they "were severally debated by the house." An adjournment then took place until three o'clock in the afternoon; but nothing further of importance appears on the journal, to have been transacted on that day. 1638. The assembly take into consideration the laws sent in by the proprietor.

On the meeting of the house on the third day of their session, (the 29th of January,) an extraordinary question seems to have been agitated. It thus appears on the journal: "Upon occasion of some warrants granted out against some freemen that had made proxies, a question was moved in the house, whether freemen having made proxies during the assembly might be arrested before the assembly were dissolved; and captain Cornwaleys and James Baldrige were of opinion that they might, but the rest of the house generally concurred, that after the writs issued for summoning the assembly, no man having right to repair unto the assembly might be arrested, until a convenient space of time after the dissolution of the said assembly, for their repair home."

It is to be observed, that this privilege from arrests, on *warrants* here mentioned, must have been only in *civil* cases, as for debt; for even at this time in England, no privilege of parliament was allowed to exempt even peers of the realm, from arrests for any indictable *crime*. If the privilege here contend-

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I.

1638.

ed for, was meant to extend to a freeman while he was actually on his way to the assembly, either to take his seat therein, or even to revoke a proxy before made by him, the decision of the house must be allowed to have been proper enough; for, by the law of parliament, the appearance of a peer in the house of lords, cancels any proxy before made by him;* but, if he was to be privileged from arrests while he was about his ordinary business at home, and at the same time represented by his proxy, whom he had appointed, or burgess for whom he had voted, it does not appear to have been consonant to any principle of sound policy.

It seems somewhat remarkable to us at this day, that our ancestors, in such an early state of their colonisation, should have had occasion to stickle so much for a privilege, generally esteemed odious even under governments where personal liberty is most strongly cherished. As the habit of contracting debts without the means of payment, is generally supposed to originate from an excess of luxury in living, it is difficult to account for the frequency of arrests for debts, which must be supposed to have existed at this time among the colonists, so as to make their legislative interference a subject of anxiety among them. Just settled in a wilderness, where few temptations to extravagant expenses could exist, we should have supposed that habits of economy would have become almost unavoidable.

The house now proceeded to take into consid-

ration again, the laws sent by the lord proprietor, as before-mentioned. Three questions on the subject appear to have been proposed in the house: first, whether the laws should be now read again in the house; or, secondly, whether they should be put to the vote immediately, without further reading; or, thirdly, whether the subject should not be postponed to a future day, when a greater number of members might attend.

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“ Captain Cornwaleys gave his opinion, that they should expect a more frequent house;” that is, that the business should be postponed until a greater number of members attended.

“ Captain Fleete* gave his opinion, that they should be read again;” but seemed to coincide with the opinion of captain Cornwaleys, of postponing the subject to a future day.

The previous question, however, was put; whether the laws “ should be now put to the vote immediately,” or not. It was carried in the affirmative by thirty-three voices to eighteen, both sides including proxies.

“ Then were the laws put to the question, whether they should be received as laws, or not.”

“ Affirmed by the president and Mr. Lewger, who counted by proxies fourteen voices.”

“ Denied by all the rest of the assembly, being thirty-seven voices,” including, as we may suppose, their proxies.

The laws
sent re-
jected.

* It is probable, that this was the same captain Henry Fleete, before-mentioned, (p. 271,) who was found by governour Calvert, living at Piscataway among the Indians, where he had been for some years before the arrival of the colony.

CHAP.

I.

1638.

Thus it would seem, that governour Calvert and Mr. Lewger, the secretary, were the only two members of the assembly who were for receiving the laws sent in by the lord proprietor; for although they counted twelve other votes besides their own, on the same side, that is, fourteen voices, yet as those freemen for whom they voted as proxies might not have voted in the same way, had they been present, the fourteen voices cannot fairly be counted, in forming an estimate of the real opinions of the freemen of the province. Neither can all the thirty-seven voices in the negative be taken in for the same reason; but, we may suppose, that a much less proportion of those thirty-seven voices were proxies, than on the other side; since by the rules and orders of the house before-mentioned, ten members at least were necessary to constitute a house, and in that case there must have been eight members at least in the negative, who voted in their own rights, to two in the affirmative. The grounds and reasons of their objections to these laws do not appear on the journal; but certain it is, that a very warm opposition, among a large majority of the freemen, was made to their reception, at the head of which opposition captain Cornwaleys may, from all appearances, be considered as having taken his stand. Neither are we able at this day to judge of the merit or demerit of those laws sent in by the proprietor, by a perusal of them, as no copies of them are to be found on our records.* Did the duty of a historian allow him to mention his conjectures, a plausible supposition might be made,

* Bacon's Laws of Maryland, anno 1637.

that the dispute about the reception of these laws was dictated more by a political contest for the right of propounding laws to be enacted by the assembly than any other cause. From the good character which Cecilius, lord Baltimore, always bore, we cannot suppose that he had framed or proposed any laws for the colonists, but such as he deemed the best in his own opinion, for the promotion of their welfare, with which his own interest at this early period of the province must have been necessarily involved, and for the prosperity of which he must have felt the sincerest solicitude. It is observable, also, that no specific objections to any particular law or laws of those sent in by the lord proprietor, were made, but the opposition to their reception seems to have been founded solely on his assumption of the right of propounding them. We may suppose, on the other hand, also, that his rejection of the laws said to have been made by the colonists in 1635, before-mentioned, was founded on this disputable right.* So that in the very infancy of the settlement, the contest for the right of propounding laws was likely to result in placing the colonists in that most dangerous situation of society, of living under a government without any known laws. The house of assembly, convened at this time, seemed to be sensible of this. We accordingly find, therefore, on the journal of the house the following entries, immediately succeeding those of the rejection of the laws as just mentioned.

“Then question being moved, what laws the pro-

* See note (T) at the end of the volume.

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I.

1638.

How far
the laws of
England
were
deemed to
be in force.

vince shall be governed by, it was said by some, that they might do well to agree upon some laws till we could hear from England again.

"The president denying any such power to be in the house, captain Cornwaleys propounded the laws of England, the president acknowledges that his commission gave him power in civil causes to proceed by the laws of England, and in criminal causes, likewise, not extending to life or member, but in those he was limited to the laws of the province; there could be no punishment inflicted on any enormous offenders by the refusal of these laws."

"Whereupon the commission was produced and examined, and upon the reading of it, it appeared that there was no power in the province to punish any offence deserving the loss of life or member, for want of laws."*

"To this they answered, such enormous offences would hardly be committed without mutiny, and then it might be punished by martial law."

The house at this period of the business appear to have adjourned for dinner, but met again in the

*The commission here alluded to, was most probably that sent in to the governour, bearing date the 15th of April, 1637, before-mentioned, by which the governour and council were authorised, "where *the life, member, or freehold* of any person should happen to come in question, to inquire and determine according to *the laws of our said province*, and finally to give sentence and judgment thereupon and to award execution accordingly." The difficulty appeared to be, that according to the commission they could not proceed against offenders, in capital criminal cases, by the laws of England, but by their own particular local *laws of the province*; from whence followed, that if there were no *laws of the province*, there no proceedings in such cases.

afternoon of the same day, when it was moved, CHAP.
“that the house would consider of some laws to be I.
sent to the lord proprietor.” 1638.

“And the president advised, that they should choose some committees* to prepare the draught of them, and then the house might meet for confirming them; and in the mean-time, every one might follow their other occasions.”

“So it being put to the vote, how many committees should be appointed for that purpose, they agreed that five should be chosen.” And five were accordingly chosen.

“It was then considered, for how long to adjourn the house, and it was thought fit to adjourn till the eighth of February following.”

“And because the court was to be held in the mean-time, that is to say, on the third of February, that therefore, the privilege of parliament should be void until the court were past, and all freemen might be arrested, as if no assembly were. And so the house broke up.”

The interval of ten days, for the committee to prepare the draughts of new laws, being elapsed, the assembly met again on the eighth of February, according to their adjournment. The committee, it seems, had, during this interval, prepared a new set of laws to be enacted by the assembly, and to be sent to the lord Baltimore; but it appears also, that upon consultation during this short recess, it

* It appears from subsequent proceedings of the house, that the word “committees,” here meant the members composing a committee. It was a phraseology in use at that time. See Hazard’s Collections, Vol. 1, p. 410, 428.

CHAP. I. was thought proper to propose again, the laws sent in by the lord proprietor.

1638.

The laws sent in by the proprietor again proposed and rejected.

"The committee reported to the house, that they thought fit to read the former draught of laws again, and to put them to the vote the second time, in regard there was found a great deal of misunderstanding of them among the freemen, which made them to refuse them.

"And it being put to the vote of the house, whether they should be read again, or not, was affirmed by forty-eight voices, and denied by twenty-one voices.

"Then was an order made, by general consent of the house, that all bills propounded to the house for laws, should be read three times, on three several days, before they should be put to the vote."

"Then was the draught of laws read through the second time, and twenty bills propounded by the committee, were read the first time.*

"Captain Cornwaleys desired it might be put to the vote of the house, whether these laws† at the third reading, should be voted severally, or the whole body of them together.

"And that they should be voted altogether, was affirmed by thirty-two voices, and denied by thirty-seven."

This last vote seemed preparatory to a total rejection of them. The house upon this adjourned;

* The draught of laws to be read the second time, must have been the laws sent in by the proprietor; and the twenty bills, those prepared by the committee.

† Viz. those sent in by the lord proprietor.

(probably for dinner,) and met again in the afternoon of the same day. CHAP. I.

“The house being sat, the president declared that he thought it fitting to adjourn the house for a longer time, till the laws, which they would propound to the lord proprietor, were made ready, which some would take care of, and in the meantime the company might attend their other business. 1638.

“Captain Cornwaleys replied, they could not spend their time in any business better than in this for the country’s good; and one of the planters demanded the reason why it should be adjourned, and said they were willing to leave their other business, to attend to it. The president replied, he would be accountable to no man for his adjourning of it.

“Then captain Cornwaleys moved, that at least a committee might be appointed, that should take charge of preparing the laws till the house met again; and it being put to the house, they agreed that three committees* should be appointed. Then every one nominating severally his three committees, the president had forty-six voices, captain Cornwaleys had fifty-six, captain Evelin forty-four, Mr. Lewger thirty-one, Mr. Snow five, and captain Fleete four.

“Then was it ordered, that privilege of parliament-men for their persons, should not be allowed till the next meeting of the assembly.

“Then the president adjourned the house till the twenty-sixth day of February.”

* Three members of a committee, as before.

CHAP.

I.

1638.

From what fell from captain Cornwaleys, in the foregoing proceedings, in his proposition for adopting the laws of England, it might be inferred, that the laws of England had never yet been put in practice among the colonists, although full three years had elapsed since their first settlement at St. Mary's. It must be confessed, that this observation of his, cannot at this day be easily accounted for, since it is certain, that the earliest records of the province seem all to indicate, that the whole of their proceedings, both legislative and judicial, were conducted according to those laws, except, as observed in the house of assembly, "where life or member was to be affected." Indeed, the subject that so often occurs on the little journal of the house, before quoted, as to "privilege of parliament," in exempting the members of the house from arrest, presupposes the common law of England as to this purpose in force; for, if there were no local *laws of the province*, nor any *common law*, from whence could this privilege arise? We are, therefore, to construe Mr. Cornwaleys' proposition to this effect: that the laws of England, so far as they were applicable to the local circumstances of the colonists, were *to be continued* to be used and practised by them; and that a legislative *declaration* to that purpose, should be made.

Courts of
justice
meet.

In confirmation of this construction of the foregoing proposition, we are to observe, that in a few days after the assembly rose, courts of justice were held at St. Mary's, in which the proceedings appear to have been in exact conformity to those laws. A court "for testamentary causes," composed of the

governour and council, was held on the 12th of February ; in which letters of administration were granted on the estates of divers deceased persons, and proceedings had, as in the same kind of courts in England. On the same, or the succeeding day, a court, called in the records, a *county-court*, was holden before the lieutenant-general, captain Robert Wintour, and Mr. John Lewger ; at which a grand jury were impanelled and sworn, and two bills of indictment for piracy and murder, were sent up to them, and found true bills. These indictments appear to have been drawn according to English precedents, and the technical phraseology used in them according to the established practice of the criminal laws of England. As these indictments, which have been before alluded to, related to those political incidents of the province occasioned by Clayborne's resistance to the lord proprietor's right and authority over the isle of Kent, some more particular notice of them will be necessary.

CHAP.

L

1638.

Pro-
ceedings
therein
against
Clay-
borne's
party.

The first of these indictments charges : " Let inquest be made for the lord proprietor, if in the river Pocomoque, on the eastern shore, on the twenty-third day of April, in the year 1635, Thomas Cornwaleys, esq. one of the commissioners of this province with divers other persons of the company and servants of the said Thomas Cornwaleys, being in two pinnaces, called the St. Helen and the St. Margaret, in the peace, &c. Rateliff Warren, commonly known by the name of lieutenant Warren, Richard ———,* and Robert Lake, with divers

* The surname here in the record is not legible.

CHAP.

I.

1638:

others, to the number of fourteen persons, or thereabouts, &c. in one pinnace belonging to William Clayborne, of the isle of Kent, gentleman, with force and arms, &c. on the day aforesaid, in the place aforesaid, upon the two pinnaces aforesaid, feloniously, and as pirates and robbers, an assault did make, and upon the said Thomas Cornwaleys and his company, divers guns charged with powder and bullets, did shoot and discharge, &c. and one William Ashmore, of St. Mary's, apprentice in the pinnace aforesaid, the day and year aforesaid, at the place aforesaid, did shoot and wound in the breast, on the left side, near the left papp, of which wound the said William Ashmore instantly died; and if the said William Clayborne did encourage and instigate, and abet the said lieutenant Warren, to make and attempt the said assault upon the pinnace aforesaid, or upon any other, the pinnaces, boats, or vessels belonging to St. Mary's; and if the said William Clayborne did, by a special warrant or commission, under his hand, command, warrant, and authorise the said lieutenant Warren, to seize, take, and carry away the pinnaces or other vessels belonging to St. Mary's, contrary to the peace of the sovereign lord the king, his crown and dignity, and contrary to the peace of the said lord proprietor, his domination and dignity."

The other indictment is against Thomas Smith, gentleman, and three other persons, planters, for the murder of the same William Ashmore, and is in other respects, the same as the former indictment, *totidem verbis*, except as to time and place, as follows: "Let inquest, &c. if in the harbour of great

Wiggomoco, in the bay of Chesapeake, on the tenth day of May, in the year of our Lord 1635, Thomas Cornwallseys, esq. one of the commissioners of the province, Cuthbert Hemirk, and John Hollis, servants of the said Thomas Cornwallseys, being in the good pinnace called the St. Margaret, in the peace, &c. Thomas Smith, of the isle commonly called Kent, gentleman, Philip Tailor, Thomas Duffil, and Richard —, * planters, together with divers others, to the number of fourteen persons, or thereabouts," &c. and so on, the same as the former indictment, charging William Clayborne also, as accessary before the fact, in the manner as before.

CHAP.

I.

1638.

On account of the deficiency in the laws, and the exception in the lieutenant-general's commission, before-mentioned, so that no capital punishment could be adjudged by any court of the province then existing, the trials on these indictments were postponed until the next meeting of the assembly.

Notwithstanding these proceedings, and although Clayborne had, before this, departed for England, yet it seems, that the inhabitants of the isle of Kent were far from being at this time quiet and obedient to the lord proprietor's government. The authority of the provincial government, was yet so openly contemned and resisted, by many of the inhabitants of that island, as to render it necessary for the governor to proceed thither with an armed force, to quell and punish the refractory and disobedient. We find in the records of the "Council Proceedings" of this period, an entry explanatory of the

The inhabitants of the isle of Kent refuse to submit.

* The surname here in the record is not legible.

CHAP. reasons and causes of this measure of the govern-
I. ment.

1638.

Governour Calvert proceeds with a military force against them.

"By the governour and council, this 12th of February, 1637," (1638, new style.)

"The governour and council, taking into consideration the many piracies, inscencies, mutinies, and contempts of the government of this province, formerly committed by divers of the inhabitants of the isle of Kent, and that the warrants sent lately into the said island, under the great seal of the province, for apprehending some malefactors, and to compel others to answer their creditors in their lawful suits of debt or accompt, were disobeyed and contemned, and the prisoners rescued out of the officer's hands, by open force and arms; and being now newly informed, that divers of them do maintain and protect themselves in their said unlawful and rebellious acts, did practice and conspire with the Susquihannoughs and other Indians, against the inhabitants of this colony, have thought it fit, that the governour should sail, in person, to the said isle of Kent, and take along with him a sufficient number of freemen, well armed, and there, by *martial law*, (if it shall be necessary,) reduce the inhabitants of the said island to their due obedience to the lord proprietor, and by death, (if need be,) correct mutinous and seditious offenders, who shall not, (after proclamation made,) submit themselves to a due course of justice; and for his better assistance herein, it was thought fit, and so ordered, that captain Thomas Cornwaleys, esquire, and one of the council of this province, should go along with the governour, and be aiding and assisting to him, to the uttermost of his power,

for the command of the forces, according to such directions as he shall receive from the governour during the expedition.

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1638.

Signed, LEONARD CALVERT,
 JEROME HAWLEY,
 JOHN LEWGER.*

Preparatory also, to this expedition, the governour issued his proclamation, reciting, that "whereas this present general assembly, begun on the 25th day of January, last past, and by several adjournments, continued until the 8th of this instant month of February, was then adjourned until the 26th of this instant month, now designing at this present, to make an expedition in person, unto the isle of Kent, and doubting, lest some accident might hinder my return to St. Mary's, afore the said day, whereby the assembly would of itself be dissolved, for want of power to assemble; know ye, therefore, that in case of such my absence, I have authorised and deputed Mr. John Lewger secretary, in my name and place, to hold and convene the said assembly, at the day appointed, and to give voice for me, to all such things as he shall think fit, also to adjourn or dissolve the said assembly, and to do all things in my stead, &c.

Secretary
 Lewger
 authori-
 sed to
 hold the
 assembly.

LEONARD CALVERT."

During the governour's absence from St. Mary's, the assembly met on the 26th of February, 1637, (1638, new style,) according to adjournment. But,

* See the Provincial Records, entitled "Council Proceedings, from 1636 to 1657," p. 26, 27.

CHAP. after ordering "that privilege of parliament be sus-
 I. pended till the next meeting," the house was ad-
 1638. journed till the 5th of March next.

The house met on the 5th of March, according to their last adjournment; but, the governour being still absent, "Mr. Secretary adjourned the house till the 12th of March following."

"And the house ordered that privilege of parliament should be suspended till the next meeting."

The house met on the 12th of March, according to their adjournment; and the governour, being now returned, was present, and presided as speaker.

"Privilege of parliament was affirmed;" and the twenty bills draughted by the committee, which were formerly read, at the session on the eighth of February, were now read a second time.

The house meeting again on the next day, (the 13th of March,) fourteen other bills were then read for the first time.

Act of at-
 tainder
 against
 William
 Clay-
 borne.

Which bills were again read on the succeeding day, (the 14th of March,) together with three other bills for the first time; one of which last was "for the attainder of William Clayborne, gentleman."

The reader will observe, that Clayborne was charged as an accessory before the fact, to the murder and piracy, as stated in the bills of indictment, before-mentioned, found by the grand jury. On account of the deficiency of the laws, as before stated, the intervention of the legislature was deemed necessary, against both Clayborne and Smith. The former not being taken, the proceeding against him was by a bill of attainder; by which, his property within the province, became forfeited to the lord

proprietor. The latter being still held as a prisoner, he was, in the afternoon of this day, (the 14th of March,) arraigned and tried before the house, sitting as a court of justice. As the proceedings of a legislature, (under the degree of a house of lords,) acting in a judicial capacity, were at this time uncommon, it is thought that an insertion of them here, as they appear on the records, will not be deemed improper.

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I.

1633.

"Then was Thomas Smith called to the bar, being indicted of piracy, and Mr. Secretary made himself attorney for the lord proprietor, and read his lordship's warrant in that behalf. Then did the attorney put in the indictment, and demanded that the prisoner might be arraigned upon his indictment; and the indictment being read, he pleaded Not guilty.

Trial of
Thomas
Smith,
one of
Clay-
borne's
men.

"Then did the attorney inform the house upon the indictment, and produced the depositions of John Tarbison and Arthur Brooks; and the prisoner pleaded all he had to say in his defence, and the attorney replied to it: and when the prisoner had no more to allege for himself, he was demanded whether he would challenge any in the house that were to pass upon him, and he challenged none; then they gave their votes, and he was found guilty by all the members except *one*.*

"Then was sentence pronounced by the presi-

* The name of this dissentient member, as it is in the record, is not easily legible; but it appears to be *John Halfpence*.

CHAP. dent, in the name of all the freemen, in these
I. words :

1638.

“ Thomas Smith, you have been indicted for felony and piracy ; to your indictment, you have pleaded not guilty, and you have been tried by the freemen in this general assembly, who have found you guilty, and pronounce this sentence upon you, that you shall be carried from hence to the place whence you came, and thence to the place of execution, and shall there be hanged by the neck till you be dead, and that all your lands, goods, and chattels shall be forfeited to the lord proprietor, saving that your wife shall have her dower, and God have mercy upon your soul.

“ Judgment affirmed and approved by special consent, by word of mouth, by captain Cornwaleys,” and others (named in the record) sixteen in number.*

“ Then did the prisoner demand his clergy ; but it was answered by the president that clergy could not be allowed in his crime, and if it might, yet now it was demanded too late after judgment.”

Inquiry by
the assembly
into the conduct
of
captain
Cornwaleys.

It will be recollected, that in the rencounter between captain Cornwaleys and his company with Clayborne's men before-mentioned, several persons of the latter party were said to have been killed by the fire of Cornwaleys's men in resisting the attack upon them first made by Clayborne's party, as alleged by those of Cornwaleys. It was, therefore, deemed necessary by the house, that inquiry should

* By this the whole house of assembly must at this time have consisted of seventeen members, including John Halfehide the dissentient.

and the other, in the year of 1811, the first time.

and the other, in the year of 1811, the first time.

and the other, in the year of 1811, the first time.

and the other, in the year of 1811, the first time.

and the other, in the year of 1811, the first time.

and the other, in the year of 1811, the first time.

be made by them of these facts; and their proceedings thereon, appear upon the records to have been as follows;

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I

1638.

" Then departed out of the house, captain Cornwaleys, Cuthbert Fennick, William Lewis, John Nevill, Anthony Cotton, Edward Fleete, and Cyprian Thoroughgood.

" Then was the house moved by the attorney to inquire of the death of William Ashmore, Ratcliff Warren, John Bellson, and William Dawson, and the house having heard the evidence of Cyprian Thoroughgood, John Nevill, Cuthbert Fennick, and Edward Fleete did find that the said Ratcliffe Warren, John Bellson, and William Dawson, with divers others, did assault the vessel of captain Cornwaleys and his company, feloniously and as pirates and robbers to take the said vessel, and did discharge divers pieces charged with bullett and shott against the said Thomas Cornwaleys and his company, whereupon and after such assault made, the said Thomas Cornwaleys and his company in defence of themselves and safeguard of their lives, not being able to fly further from them, after warning given to the assailants to desist from assaulting them at their own peril, did discharge some guns upon the said Ratcliff and his company, of which shots the said Ratcliff Warren, John Bellson, and William Dawson died, and so they find that the said Thomas Cornwaleys and his company did lawfully, and in their own necessary defence kill the said Ratcliff Warren, John Bellson, and William Dawson, and do acquit the said Thomas Cornwaleys and his company of the death of the said

CHAP. Ratcliff Warren, John Bellson, and William Daw-

L

son.

1638.

“ And they further find; that the said Ratcliff Warren and his company did discharge their guns against the said Thomas Cornwaleys and his company, and did kill the said William Ashmore, being one of the company of the said Thomas Cornwaleys; as felons, pirates, and murderers.”

That the assumption of judicial power by the house of assembly at this time, was not confined to Smith's case, appears from the journal of the house for the succeeding day, (the 15th of March,) where an entry appears of the following purport: “ Then was fined to the lord proprietor Thomas Baldrige, 40 lb tob^o. for striking John Edwards.” It is true that this might have arisen from the fact being perpetrated in the presence of the house, on which occasion, by the law of parliament, they would have had power to impose the punishment of imprisonment as for a contempt; but the journal does not authorise this supposition of the circumstances of the fact.

Resolu-
tion of
the assem-
bly rela-
tive to ser-
vants.

Another entry on the journals of the house, of the 17th of March, may perhaps be deemed worthy of notice, as tracing a feature of the early habits, manners, and customs of our ancestors—“ Then upon a question moved touching the resting of servants on Saturdays in the afternoon, it was declared by the house that no such custom was to be allowed.” It may be remarked, that notwithstanding this declaration of the legislature, the custom has in some measure, even with slaves, prevailed throughout the province.

On the last day of the session, (March 24th), CHAP.
I. which according to old style, was the last day of the year 1637, the several bills which had been 1638. prepared to be passed by the house were now “fair-ly ingrossed and read, and after the reading of them the governour signed them, and *so did the rest of the house.* And so the house dissolved.” The assembly dissolved.

However beneficial and necessary for the province those laws now enacted by the assembly, and assented to by the governour, might have been, yet it seems when they were sent to England and propounded to the lord proprietor for his assent, he thought it proper to reject them. Of his reasons for so doing, we are nowhere positively informed; but the same conjecture we have before ventured may be again hazarded;—that he had resolved to retain the right of first propounding the laws to be enacted by any assembly of his province. Although a complete list of the *titles* of these laws remains upon our records, yet the laws themselves at large are not extant, no copies of them appearing upon our records.* Many of these laws were, probably, afterwards reenacted under the same or similar titles. The contents of some of them, however, to which we do not find subsequently any with titles similar, would interest our curiosity even at this day, particularly the first on the list, entitled, “A Bill for di-

* See a complete list of them published in Bacon's edition of the Laws of Maryland, 1637, where it is said, “They were never enacted into laws;” meaning, without doubt, for want of the lord proprietor's assent to them; “nor are any copies of them, or of those sent in by his lordship to be found in our records.”

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viding of the province." From the titles of several bills immediately following, relative to manors, and one entitled, "A Bill for Baronies," we are induced to suppose, that besides the division of the province into counties, a further division of the same was contemplated into baronies and manors, with their feudal appendages of courts-baron and courts-leet. This may, probably, have been the cause of its being stated by some writers, that the province was originally divided into baronies and manors. Although many manors were subsequently laid out and granted to individuals, yet it does not appear, that this division of the province into baronies, (at least in the feudal sense of the word, was ever carried into effect; for we are told that "no grant of a *barony* is to be found on record."*

William Clayborne's petition to the king in council, and order thereupon.

Clayborne having been sent to England by the governour of Virginia, after the military outrage committed by his men, through his orders, on the Maryland colonists, as before-mentioned, he presented a petition to the king, in order to obtain redress of the "wrongs and injuries," which he had sustained, as he alleged. A very imperfect copy of this petition appears among the earliest documents of our Provincial Records,† with intervening blanks therein, which render it in some places almost unintelligible. The tenor and substance of it is, however, as follows:

"The petition of captain William Clayborne, on

* See Kilty's Landholder's Assistant, p. 93. Also note (V) at the end of this volume.

† "Council Proceedings from 1636 to 1657," p. 4.

the behalf of himself and partners, to the king, CHAP. I.
 showing—that the petitioners, by virtue of a com-
 mission under his majesty's hand, &c. divers years 1638.
 past, discovered, and did then plant upon an island
 in the great bay of Chesapeak, in Virginia, by them
 named the isle of Kent, which they bought of the
 kings of that country, and built houses, transported
 cattle, and settled people thereon, to their very great
 costs and charges; which the lord Baltimore taking
 notice thereof, and the great hopes for trade of bea-
 vers and other commodities, like to ensue by the
 petitioners' discoveries, hath since obtained a patent
 from your majesty, comprehending the said island
 within the limits thereof, and sought thereby to dis-
 possess the petitioners thereof, and debar them of
 their discovery, &c.; complaint thereof being made,
 your majesty was pleased to signify your royal plea-
 sure by letter, intimating that it was contrary to jus-
 tice, and the true intent of your majesty's grant to
 the said lord ———, — that notwithstanding the said
 patent, the petitioners *should have freedom of trade*,
 requiring the governour, and all others in Vir-
 ginia, to be aiding and assisting unto them, prohi-
 biting the lord Baltimore and all other pretenders
 (under) him, to offer them any violence, or to dis-
 turb or molest them in their ——— and plantation,
 as by your majesty's letter annexed appeareth,—
 since which ———* be it your — majesty's said
 royal pleasure hath been made known to Sir ———

* These blank spaces are so in the record. In this place it may be supposed, that the obsolete adverb, "allbeit," was intended, which is synonymous to the word "although."

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—,* governour of Virginia, (who slighted the same,) as also to the lord Baltimore — agents there; yet they have in a most wilful and contemptuous manner, disobeyed the same, and violently set upon your petitioners' pinnaces and boats — goods to trade, and seized them, and do still detain the same by the —, of which pinnaces and goods the inhabitants within the said isle were — so great famine and misery, as they became utterly destitute of any corn — sustain themselves, which enforced them to send a small boat — why they obeyed not your majesty's said royal letters and commands — the said pinnaces and goods to enable them to trade for corn-seed — boat approaching near unto some vessel of the said lord Baltimore's — agents, they shot among the petitioners' men and slew three of them and — more; and not content with these great injuries, the said lord Baltimore and his agents, have openly defamed and unjustly accused the petitioners of — crimes, to his exceeding great grief, which hath caused him purposely — pair† into this kingdom, and humbly prostrates himself and his cause — majesty's feet, to be relieved therein.

“ And the petitioner having likewise discovered — plantation and factory, upon a small island, in the mouth of a river, at the bottom of the said bay,

* This must mean *Sir John Hervey*; for *Sir William Berkeley*, his successor, was not appointed governour of Virginia until the year 1639.

† Probably intended for the words, “purposely to repair into,” &c.

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in the Susquehannock's country, at the Indians desire, and purchased the same of them; by means whereof, they are in great hopes to draw thither the trade of beavers and furs, which the French now wholly enjoy, in the grand Lake of Canada, which may prove very beneficial to your majesty and the commonwealth; but, by letter sent him thenceforth, your petitioner is advised, that the lord Baltimore's agents are gone with forty men, to supplant the petitioners' said plantations, and to take possession thereof, and seat themselves thereon.

“ And the petitioner being desirous to propose a way, whereby your majesty may receive to the crown for plantations, an annual benefit, (and) be certain to enjoy the same, with the fruits of their labours, they do offer unto your majesty 100%. per annum, viz. 50%. for the said isle of Kent, and 50%. for the said plantation, in the Susquehannock's country, to have there twelve leagues of land, &c. from the mouth of the said river, on each side thereof, down to the said bay southerly, to the seaward, and so to the head of the said river, and to the grand Lake of Canada; to be held in fee from the crown of England, and to be yearly paid into your majesty's exchequer; to be governed according to the laws of England, with such privileges as your majesty shall please to grant: by which means, your majesty may raise a great revenue annually, and all planters will be encouraged to proceed cheerfully on their designs.

“ And the petitioners having now a ship ready to depart, with goods and people, for the prosecuting and managing of their said discoveries and trade,

CHAP. which without speedy supply, and your majesty's
 I. favour, &c. is like to come to ruin,—

1638. “ May it therefore please your majesty, to grant a confirmation of your majesty's said commission and letter under your majesty's broad seal, for the quiet enjoyment of the said plantations, &c. to send now with the said ship; and to refer the speedy examination of the said wrongs and injuries, unto whom your majesty shall please to think fit, to certify your majesty thereof, and that your petitioner may proceed without interruption of the lord Baltimore's agents,” &c.

Immediately following the foregoing petition, there appears on the provincial records, the following entry, which is probably a copy from the proceedings of the privy council in England, relative to the same :

“ At the court at Newmarket, the 26th of February,
 1637,” (1638, N. S.)

“ His majesty approved the proposals made in the foregoing petition, and confirmed what was contained in his former condition and letter under the broad seal; and to that end, referreth to the lord archbishop of Canterbury, lord keeper, lord privy seal, and any other the commissioners for plantations, who shall be near at hand, &c. and with Mr. Attorney's advice, to prepare a grant for the king's signature. The said lords were also to examine the wrongs complained of, and certify his majesty accordingly.

“ The lords accordingly appoint a day for the hearing of this business at the council board, and

direct notice thereof to be given to the lord Baltimore, to be heard by himself or council. Signed, CHAP.
I.
Wm. Cant, Tho. Coventry, W. Manchester.” 1638.

The following order in council appears to be the result of the foregoing proceedings :

“At Whitehall, the fourth of April, 1638.

“Present, lord archbishop of Canterbury, lord keeper, lord treasurer, lord privy seal, earl Marshall, earl of Dorset, lord Cottington, Mr. Treasurer, Mr. Comptroller, Mr. Secretary Cooke, Mr. Secretary Windebank.

“Whereas a petition was presented to his majesty, by captain William Clayborne, on the behalf of himself and partners, showing, that by virtue of a commission under his majesty's hand and signet, they, divers years past, discovered, and planted upon an island in the great bay of Chesapeak, in Virginia, named by them, the isle of Kent, whereupon (they pretended) they had bestowed great charges; and that the lord Baltimore (as they alleged,) taking notice of the great benefit that was likely to arise to them thereby, obtained a patent from his majesty, comprehending the said island within the limits thereof; and that they had likewise settled another plantation upon the mouth of a river, in the bottom of the said bay, in the Susquehannah's country, which the said lord Baltimore's agent there (as they allege,) sought to dispossess them of, pretending likewise, great injuries and violence offered to them in their trade and possessions in those parts by the said agent, in killing some of the said captain Clayborne's men; taking their boats contrary

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to the said commission and express words of a letter from his majesty, under his hand and signet; and therefore, besought his majesty to grant unto the petitioner a confirmation, under the great seal, of his majesty's said commission and letter, for the quiet keeping, enjoying, and governing of the said islands, plantation, and people, with other additaments of lands and immunities in those parts; and likewise, that his majesty would refer the examination of the said wrongs and injuries, to such as his majesty should think fit, as by the said petition more at large appeareth. Forasmuch as his majesty was pleased, at New Market, the twenty-sixth of February, 1637, to refer the consideration of the petitioner's request unto the lord archbishop of Canterbury, the lord keeper, the lord privy seal, and any other the commissioners for plantations, who should be near at hand, and whom they pleased to call, and withal to advise with Mr. Attorney-general, for the preparing and settling the grant desired, for his majesty's signature, and to examine the wrongs complained of, and certify his majesty what they thought fit to be done for redress thereof: whereupon, all parties attending their lordships this day, with their counsel learned, and being fully heard, the said commission and letter being likewise read, it appeared clearly to their lordships, and was confessed by the said Clayborne himself, then present, that the said isle of Kent is within the bounds and limits of the said lord Baltimore's patent; and the said captain Clayborne's commission, (as it likewise appeared,) was only a license under the signet of Scotland, to trade with the Indians of America, in such places

where the said trade had not been formerly granted by his majesty to any other; which commission, their lordships declared, did not extend, nor give any warrant to the said Clayborne, or any other; nor had they any right or title thereby to the said isle of Kent, or to plant or trade there, or in any other parts or places, with the Indians or savages within the precincts of the lord Baltimore's patent; and their lordships did likewise declare, that the aforesaid letter, under his majesty's signature, which had reference to the said commission, under the signet of Scotland, was grounded upon misinformation, by supposing that the said commission warranted the plantation in the isle of Kent, which (as now appears) it did not. Whereupon, as also upon consideration of a former order of this board of the third of July, 1633,* wherein "it appeared, that the difference now in question being controverted, the lord Baltimore was left to the right of his patent; and the petitioners to the course of law, their lordships having resolved and declared as aforesaid, the right and title to the isle of Kent, and other places in question, to be absolutely belonging to the lord Baltimore, and that no plantation or trade with the Indians ought to be within the precincts of his patent, without license from him, did therefore likewise think fit and declare, that no grant should pass to the said Clayborne or any others, of the said isle of Kent, or other parts or places within the said patent; whereof his majesty's attorney and solicitor-general are hereby prayed to take notice; and con-

* See the order in note (S) at the end of this volume.

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cerning the violences and wrongs, by the said Clayborne and the rest complained of in the said petition to his majesty, their lordships did now also declare, that they found no cause at all relative thereto, but do leave both sides therein to the ordinary course of justice.

Ext.

T. MEANTYS.*

Notwithstanding the apparent authenticity of the foregoing documents, the reader is to be informed, that it has been utterly denied, that any such proceedings or order in council ever existed. In the bill in chancery, before-cited, filed by the Penns against the then lord Baltimore, in the year 1735, to compel a specific performance of an agreement then before entered into between these two proprietaries, relative to the bounds of their respective provinces, it is stated that shortly after Mr. William Penn had obtained his patent for Pennsylvania, which was in the year 1681, (1682, N. S.) he also purchased of the duke of York, (afterwards James II,) the three Lower Counties, (now Delaware state,) and that a controversy arising thereupon, between these two proprietaries, concerning the bounds of the province of Maryland, on the side next to those Counties, the lord Baltimore (Charles, son and heir of Cecilius,) preferred his petition to the king in council concerning the same, which petition was, some time in May, 1683, "referred to the consideration of the then commit-

* "Council Proceedings from 1636 to 1657," p. 8. This order in council is also inserted at large in Hazard's Collections, Vol. 1, p. 430.

tee of trade and foreign plantations, (which committee did then consist of lords of his majesty's most honourable privy-council,) and before the said committee, the said lord Baltimore and your orator's father (William Penn) and their counsel learned in the law, were many and divers times heard for near two years and a half together, and a very long suit and trial were had thereon between your orator's said father and the then lord Baltimore, touching the right and title to the said land and soil of the said three Lower Counties." The bill then proceeds, after stating the order in council thereupon, (which was, in substance, to divide the peninsula between them) to a distinct allegation relative to the foregoing order in council of 1638, on Clayborne's petition, as follows: "And your orators further show unto your lordship, that during the said contest in the years 1683, 1684, and 1685, the said then lord Baltimore, upon the eighth of October, 1685, produced to the then committee of trade and plantations, in order to serve himself, an unauthentic, blank, fictitious paper, not pretended to be signed or sealed at all, but drawn up in the form of the draft of a report and order of the committee of foreign plantations, and supposed to be made on the fourth of April, 1638, touching differences between some lord Baltimore and one Mr. Clayborne about the isle of Kent, in order to show that former boards' pretended opinion touching the lord Baltimore's right to the isle of Kent, and the then said committee of trade and plantations in 1685, put off the matter, and gave the said lord Baltimore time to procure an attested copy of such

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pretended report or order in 1638, which the said lord Baltimore undertook to procure, but nine days after the said lord Baltimore declared in person to the said committee of trade and plantations, namely on the 17th of October, 1685, that he could not find the original, whereby an attested copy might be procured, neither, as your orators charge, is there any authentic book or office where any original or authentic copy may be found or had but *the said blank paper was a mere fiction.*"*

Unprovided as we are with any authority to disprove this allegation in the before-mentioned bill, and not being in possession of lord Baltimore's *answer* thereto, we are left to rest the authenticity of the proceedings and order in council of 1638, as before-stated, on that kind of evidence which depends upon concomitant circumstances. That Clayborne made resistance to lord Baltimore's possession of the isle of Kent; that from superior military force he was obliged to fly to Virginia—that he was there demanded by commissioners from Maryland—and that the governour of Virginia thought it proper to send him home to England for the investigation of his rights and pretensions—all seem to be facts well authenticated by the historians of Virginia. There is every probable circumstance, therefore, to warrant the presumption, that he made the application by *petition*, as before-stated to the king in council for a redress of his wrongs. If then he did actually prefer his *petition* before-mentioned, some *proceedings* must have been had upon it. If

* Taken from a MS. copy of the bill in my possession.

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the petition of Clayborne was heard, as before-stated, it is to be presumed that no order in council thereupon ever took place *in favour of his claim*, or else he would immediately have availed himself of such order, by returning to the possession of his islands and settlements, and such order would have appeared in form. But this not being the case, and the order appearing of a directly opposite nature, there are strong grounds to suppose that such order was "authentic," although no original could be found, "whereby an attested copy could be procured." It is to be observed also, that the proceedings and order in council of 1638 as before stated, appear upon our earliest Provincial Records of Maryland. The question would naturally occur—how came they there if such proceedings and order were "a mere fiction?" It is to be presumed, that they were placed there shortly after they occurred, and long before the contest between William Penn and lord Baltimore, in 1683. It is worthy of remark also, that the copy of the same order, which Mr. *Hazard* has inserted in his *Collections*, purports to be from the "votes of assembly of Pennsylvania." The same question would here occur again. The confusion of the times, which shortly after the date of this order of 1638, ensued, by reason of the *civil war* in England, might afford some grounds to account for the omission of recording it in the records of the council in England, or for the loss of the original; or, if recorded there, for the loss of the roll. The signature annexed to it, as it now stands on our Provincial Records, to wit: "Ext. T. Mcantys," purports that the copy of it, there inserted,

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was *extracted* from some authentic document on record, by "T. Meantys," who was then "clerk of the council, and attendant upon the said commissioners for foreign plantations," as is expressly mentioned in a "letter" or order in council, made on the same day, by the same lords in council, relative to Massachusetts, and now published by Mr. *Hazard* in his *Collections*, immediately following the foregoing order, relative to Clayborne's petition. To suppose this order of 1638, to be "a mere fiction," we are driven to impute the basest fraud to Charles, lord Baltimore, or his agents, in 1683, contrary to every concomitant circumstance. On the contrary, if this insinuation in the bill, be destitute of any foundation, as it really appears to be, except in the circumstance of the loss of the original, the suggestion reflects something contrary to the principles of honour in the conduct, on this occasion, of either the Penns or their agents, in 1735; and however elevated in history, the character of lord Mansfield may be, yet, as Mr. Murray, their counsel on this occasion, in drawing this bill, he certainly transcended the duty of an honourable advocate at the bar, in lending himself as the instrument of so false an imputation.

With respect to the equity of Clayborne's claim, and the justice of the foregoing decision of the "commissioners for plantations" in 1638, the question seems to have been decided by the government of the United States since their independence. Congress have regulated by law, the trade and intercourse to be carried on by the citizens of the United States, with the several tribes or nations of

Indian natives, resident within that part of the continent of America, which the United States claim as their territories. They have enacted, that no person shall trade with the Indians, without *special license*, obtained from the government of the United States for that purpose.* This is, without doubt, founded on good policy : it tends to prevent individual citizens, from acting in such manner with the savages, as to irritate and cause them to make attacks on the peaceable frontier settlers. These laws, moreover, forbid such *traders* from making purchases of lands from the Indians, the United States claiming that privilege alone, for the government, in its corporate capacity. Should any trader, therefore, obtain by purchase or voluntary grant from the Indians, even as much land as would suffice for him to put a temporary trading-house thereon, and should occupy the same for several years, during his license for such trade, and the United States should “extinguish the Indian claim” to such lands, as included the trader’s purchase ; or, (what in the opinion of some philanthropists amounts to the same thing,) take the same lands from the Indians by force, and make sales and grants thereof, to such of their citizens as would purchase the same ; it is apprehended, that such *licensed trader* would not be admitted to contend, that he had bought his house and land from the Indians, and the United States had therefore, no right to sell or to give it away to any other citizen. He would probably be told, and

* See the Acts of Congress of 1799, chap. 152 ; and 1802, chap. 13.

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very properly too, that the United States being about to fix a colony or settlers in that part of their territories, had made a grant of the same to a company, who were about to settle thereon, and if he wished to possess any lands there, he must purchase of the government or of its grantees, like any other citizen, his purchase of the Indians being illegal and contrary to the true policy of the United States. Nay more, the president would be authorised by law to use *military force*, in driving him from those lands, of which he had so possessed himself. Now this statement precisely comprehends Clayborne's right and claim. Although king Charles I, might have had no right to dispossess the Indian natives, of the country which they inhabited, yet he certainly, as the representative of the nation of which he was the monarch, had as much right to the Indian lands of America, as the government of the United States now have: his grants thereof were equally just, and therefore equally valid. The pretended or real purchase of an individual *licensed trader*, (as Clayborne was,) of the Indian natives, could not, nor ought not to have precluded the king from making a grant thereof to a company, or to an individual possessing equal means, such as lord Baltimore, who would undertake to transport thither, a numerous colony of his subjects, for the benefit of the mother country. The severance of a portion of the territory of Virginia, was really beneficial to that colony, inasmuch as the addition of such a number of their fellow-subjects, seated on their frontiers, would contribute much to their security from the hostile invasions of the savages. This benefit was

not likely to arise from the manner in which Clay-
borne, with his fellow-traders, were going on. CHAP.
The colonists of Virginia soon saw the matter in I.
this point of view, being quickly reconciled, we are 1638.
told, to this dismemberment of their territory. Thus
it would seem, that there was in reality no injustice
done to any individual whatever, by the grant of the
province of Maryland to lord Baltimore; and, if the
policy of planting distant colonies is really beneficial
to an over-populous country, and the measure be
dictated also, by the liberal generosity of indulging
mankind in their religious opinions, the unfortunate
Charles may be said to have done one act, at least,
in his life, with which posterity ought not to re-
proach him.

NOTES AND ILLUSTRATIONS.

NOTE (A) p. 11.

THE reader ought to be apprized, that no circumstance attending modern history has occasioned more anachronisms than the variation of the commencement of the year in the computation of the Christian era. To this may be referred the difference of opinion among different historians, not only as to the date of this commission to John Cabot, but as to the real date also of the voyage performed in consequence of it, either by him or his son Sebastian.

Although the period of time denominated a *year* is founded in nature, being the measure of time while the earth is performing its annual revolution round the sun, and therefore can never vary, yet the commencement of that year, like a point in the periphery of a circle, may be arbitrarily fixed upon without affecting its length or circumvolution. Hence different nations have fixed upon different periods of time for the commencement of their year, which has been commonly regulated by some remarkable event, from which as an epocha they compute their era. Agreeably to this, the Christian era is commonly supposed to be computed from the first existence of Christ upon earth, that is, when God first assumed a mortal nature, whether that be at the time of his *incarnation* or *nativity*. But this mode of computation did not take place among the Christians until more than five hundred years had elapsed from that remarkable epocha. Prior to this time the generality of Christians computed, either from the building of Rome, or according to such other computation as was in use with the people among whom they lived; if with the Jews from the creation of the world, or with the Greeks according to the Olympiads. But as the number of Christians had in the sixth century very much increased, both in Greece and Italy, and from that circumstance began to assume somewhat more important consideration than formerly, and the eastern

and western or Greek and Latin churches experiencing some inconvenience from their different mode of computing time, it was proposed, by an abbot of Rome, called Dyonisius Exiguus, to adopt a new form of the year, with a new general era, which, consonant to their religion should commence with the first existence of Christ upon earth, in a mortal nature. This proposition was adopted by the Christians, and the *incarnation* or time when Christ entered the virgin's womb was fixed as the great event or epocha from which they were to calculate their era; but they retained the Roman division of the year into months, as also the names of those months. It is to be observed, that the Romans had ever since the time of Numa Pompilius commenced their year on the calends of January, that is, on the first day of that month; but the Christians now, from a pious zeal in their own religion, having fixed upon the *incarnation*, which according to the Roman computation of the months, they ascertained to be the 25th of March, as the day of the commencement of their era, fixed that day also as the day upon which their year was in future to commence. This prevailed for some time, but as it occurred to some good Christians, that the years of a man's life were not numbered from the time of his conception, but from that of his birth, which must have been nine months afterwards, a difference in the commencement of the year took place among the Christian churches throughout Europe, some adopting the day of Christ's *birth*, to wit, the 25th of December, as the commencement of the year, others adhering to that of his *incarnation*, and others again to the old Roman method of the calends of January, which last happened to be also the day of Christ's *circumcision*. The result was, that different nations, and indeed different writers, considering the subject rather in a temporal than in an ecclesiastical point of view, regulated the commencement of their *civil* year in their own way, still however computing from the supposed commencement of the Christian era; from which disagreement it is supposed, that an error of one year at least, if not two, in the number of years elapsed of the Christian era, has crept into the vulgar computation now generally in use throughout Christendom.

Although the Roman calendar had been regulated by Numa Pompilius, and afterward by Julius Cæsar, yet as astronomy was far from being so completely understood in those days as it was afterwards even in the sixteenth century, it was found in the lapse of several centuries, that the Roman computation disagreed much with the motion of the

earth, and that the holy feast of Easther, which was dependent on the vernal equinox, had got quite out of its place. Pope Gregory, therefore, in the year 1582, to counteract so great an inconvenience to the church, procured a thorough correction of the Roman calendar. and by a bull commanded all the Catholic states of Europe to adopt his correction, prescribing in the same bull also, that the commencement of the year should for the future be on the first day of January. This regulation, as may be supposed, was conformed to by most of the Catholic states: but the Protestants at first peremptorily refused to receive it; though at last, from the obvious propriety of the measure, it met with a general reception even among them. England, Russia, and Sweden held out in opposition to it longer than any, and it was not till the year 1751, that an act of parliament was made, (stat. 25, Geo. 2, cap. 23,) prescribing the first day of January to be deemed for the future, throughout all the British dominions, the first day of the year, and such alterations in the common English calendar were directed also as brought it to be the same as the Gregorian, then generally in use throughout the most of Europe.

As the British colonies in America, now United States, naturally adopted the mode of computation practised by their mother country, it is materially important to them to know the computation used in England by the historians of that country from the adoption of the Christian era in the time of Dyonisius before-mentioned, or at least from the time of the first British settlements in America, to the alteration of the style in the year 1751. It is alleged by Dr. A. Holmes, in his very judicious work—"American Annals," (Note I., annexed to his second vol.) "that *Beda*," (sometimes called the *venerable Bede*, the oldest English historian except one, and who lived from the year 673 to that of 735, about a century after Dionysius Exiguus,) "took the Christian era from Dyonisius, and used it in all his writings; and by that recommendation of it, occasioned its adoption and use in Great Britain, and the western parts of Europe." Although the Doctor does not expressly allege in the above-cited note, that *Bede* adopted the commencement of the year used by Dyonisius, to wit, the incarnation, the 25th of March, yet in the text to which it is subjoined he strongly leaves that inference. But I find that a contrary opinion as to *Bede* is held by the anonymous writer of a learned "Dissertation on the ancient manner of dating the beginning of the year," (published in the Annual Register for 1759, a few years after the last alteration of the style in

England,) who is of opinion that Bede commenced the year at the *nativity* of Christ, at least in some instances, and cites a passage from him in proof thereof, wherein he plainly places January among the first and not among the later months of the year. The same writer proceeds to trace this subject in the following manner ;—"From *Bede's* time quite down to the Norman conquest, the constant way of computation seems to be from *Christmas-day*. The *Saxon Chronicle* also, (which comprises a period from the birth of Christ to the death of king Stephen in the year 1154,) begins the year from the *nativity* of our Lord."

"After the conquest, *Gervase*, a monk of Canterbury, in the preface to his chronicle, takes notice of many different ways of computation in his time, that is at the end of the twelfth, or the beginning of the thirteenth century. He says, that some computed from the *annunciation*, some from the *nativity*, some from the *circumcision*, and others from the *passion* of our Lord. The solar year, continues he, according to the custom of the Romans, and of the church of God, begins from the calends of January, (*circumcision-day*;) but he rather chooses to fix the commencement of it to *Christmas-day*, because we compute the age of men from the day of their birth."

"This shows there was no standing, fixed rule of computation in *Gervase's* time; and the following observation confirms it, not only in his age, but also for several centuries after him. Matthew Paris, Matthew of Westminster, Ralph de Diceto, and Polydore Virgil, place the coronation of William the conqueror upon Christmas-day, A. D. 1067, that is, these authors begin their new-year with that day, at least in this instance; whereas Thomas Walsingham, Roger de Hoveden and John Brompton, all refer it to Christmas-day, A. D. 1066, which proves that they do not in this place begin the year till after that day."

This writer further observes, that "Thomas Walsingham, who lived in the fifteenth century, although he was one of the most accurate of our monkish historians, does not always count from the same day." He adduces two instances to prove, that "he sometimes begins the year from the *circumcision*," (first day of January,) "and sometimes from the *nativity*," (twenty-fifth day of December;) for which he supposes the reason to be, "that in his *Ypodigma Neustræ*, he writes as a Norman, and that they computed the year only from the *circumcision*, whereas in his *History of England* he writes as an En-

glishman, who in his time," (about the time of Cabot's voyage,) "generally reckoned from the *nativity*."

"Hitherto nothing of our late custom of computing from the *annunciation*, has appeared in any of our old historians, except the bare mention of it in *Gervase*. There is good reason to think *it began about the beginning of the reign of king Edward, IV.*; "which was in 1461. In confirmation of this the author of this dissertation adduces the history of Croyland Abbey, and also a biographical account of William of Wickham, written by Thomas Chandler, who was chancellor of Oxford from 1458 to 1462, who dates the beginning of the year from the annunciation, and "about 15 or 16 years after," he says, "this custom" of beginning the year with the annunciation, that is, the 25th of March, "seems to have been fully settled."—This deduces the practice of the English historians nearly down to the time of Cabot's commission.

"At the reformation in England, in Henry the eighth's reign, in the early part of the sixteenth century, both the civil and the ecclesiastical authority interposed, to fix the commencement of the year to the feast of the annunciation, by adding the following rubric to the calendar immediately after the table of moveable feasts for 40 years, viz. "Note, That the supputation of the year of our Lord, in the Church of England, beginneth the 25th of March, the same day supposed to be the first day upon which the world was created, and the day when Christ was conceived in the womb of the Virgin Mary;" which stood thus down to the Savoy conference, soon after the restoration, when it was thought proper to retain the order, and drop the reason given for it, and in this shape it was continued down to the late parliamentary correction of the calendar, (in 1751,) which brings it back to the first of January, and is indeed the only legal settlement of it for civil affairs, for the rubric above-mentioned settles only the supputation of the Church of England, and says nothing of the civil government, which seems to have never used any other date than that of the king's reign, till after the restoration, not even in common deeds. During the usurpation of Oliver Cromwell, the years of our Lord seem to have been introduced, because they did not choose to date by the years of the king's reign, and continued for convenience afterwards, without the interposition of legal authority."

"Our neighbours the Scots, from time immemorial, have invariably observed the 25th day of March on the first day of the year, till

November, 27th 1599, when the following entry was made in the books of the privy council: *On Monday proclamation made be the king's warrant, ordaining the first of January, in tyme coming, to be the beginning of the New-Year, which they have as constantly followed ever since.*

As supplementary to the foregoing extracts from the before-mentioned dissertation, it may be observed, that the neighbouring kingdom of France had also different dates for the commencement of their year at different periods of time. "During the reigns of the Merovingian race, the French year began on the day whereon the troops were reviewed, which was on the first day of March. Under the Carolingians it began on Christmas-day; and under the Capetians, on Easter day, which last still remains the beginning of the French *ecclesiastical* year," (unless altered by the late revolution,) "but for the *civil* year, Charles IX., appointed in 1564, (but a few years before the pope's bull for that purpose before-mentioned,) that for the future it should commence on the *first* of January." See *Chambers's dictionary, verb. year.*

It will be acknowledged, we may suppose, that this variance in the commencement of the year would not affect the dates of any events mentioned to have occurred *out* of the space of time contained between the first of January and the twenty-fifth of March. It is true that those who compute the Christian era from the *incarnation* or 25th of March, vary one whole year from those who compute it from the calends of January; but that variance is only in the number of years which have elapsed from the birth of Christ. It does not affect the date of any intervening event, occurring in the space of time to which those who calculate from different commencements of the year, affix the same date as to the year, that is, in the space of time between the 25th of March and the first of January next succeeding. To save much reasoning, necessary to elucidate this, I will beg leave to cite a scientific authority upon the subject. In *Keil's Astronomical Lectures*, (lect. 28,) published before the alteration of the style in 1751, are the following passages;—"The English reckon from the feast of lady-day, 1718, (that is, from the 25th of March, 1718,) that there are completed 1717 years; but from the birth of our Lord, to the feast of the Nativity of the year 1717, they number only 1716 years elapsed; whereas all the rest of the Christian world count 1717 years.—But yet for all this, the English, for the greatest part of the year, design it by the same number that the rest of the Christian world does; but for three months, viz. from

the calends of January to the 8th of the calends of April," (that is, from the first day of January to the twenty-fifth day of March,) "they write one less." This is illustrated by the instance put by our American annalist, Dr. Holmes, in the note last-cited from him; "it was customary" (says he) "to give a *double date* from the 1st of January to the 25th of March. Thus, February 8th, 1721, was written February 8th, 17 $\frac{20}{21}$." This demonstrates, that in the remaining part of the year there was no difference between the English and the rest of Europe, as to the date of the year. It is true that the ten days thrown out by pope Gregory, in his reformation of the calendar, made that much difference from the English computation, in the days of the months, but as to the date of the year, which is the present question, it has no effect.

Hence, therefore, as the commencement of the reign of Henry VII, who made this patent to Cabot, and whose reign is therein alluded to, is an event which occurs in that part of the year, wherein all "the Christian world" agree in their number, and this too whether it be fixed on the day of his accession to the throne, when he gained the battle of Bosworth from Richard III, which was on the 22d day of August, 1485, or on the day of his coronation, which was on the 30th of October following, in the same year, and the patent or commission to John Cabot bears date on the 5th of March, in the *eleventh* year of the reign of Henry VII, we are enabled to affix to this commission the year of Christ, as well as that of the reign of the king. For, calculating the commencement of his reign from either of those events, to wit, the battle or the coronation, it will be found, that the 5th of March in the *eleventh* year of his reign, must be either in the year 1495 or 1496, according to the time of the commencement of the year 1496. If the commencement of the year 1496 is fixed on the 25th of March, agreeably to *old style*, the 5th of March of the *eleventh* year of his reign, will undoubtedly be in the year 1495, which is the year to which Hackluit, Harris, and Robertson have referred the date of this commission; but if the commencement of the year 1496 is fixed on the first day of January, agreeably to *new style*, the 5th of March of the *eleventh* year of his reign will be in the year of Christ, 1496, to which year Rymer and Rapin have referred its date.

Before this subject is closed, it will be proper to take notice of another note subjoined by Dr. Holmes in the *first* volume of his "American Annals," (p. 15, anno 1495). It is as follows: "Henry was

crowned Oct. 30th, 1485. If *that* year be reckoned the *first* of his reign, this commission is rightly placed by Hackluit, Robertson, and others, in 1495; but, if the first year of his reign be reckoned from 1486, the commission must be placed, where Rymer and some others have placed it, in 1496." This judicious annalist has accordingly adopted the former opinion, and in his work referred the date of the commission to the year 1495. But it must be observed, that his reasoning here is either very inaccurately or very obscurely expressed. The word "from" being always *exclusive*, if the year 1486 is thrown out of the computation of the eleven years altogether, it would place the date of the commission in 1497, contrary to his inference. Although the *end* of "the first year of his reign would undoubtedly be in 1486, to wit, either on the 22d of August, or 30th of October of that year, yet one year of his reign, being then complete and ended, it must be counted as *one* in the computation of the eleven years. The progression then would bring the end of the *tenth* year of his reign to the 22d of August or 30th of October, 1495, when the *eleventh* year of his reign would commence, and would end on the 22d of August, or 30th of October, 1496. It would then be obvious, that the 5th of March in the *eleventh* year of his reign, would be referable either to the year 1495 or 1496, according to the commencement of the year 1496, as before-explained. But as the *new style*, that is, the computation of the year from the first day of January, is now generally adopted in the United States, as well as in Europe, perhaps by force of the English statute before-mentioned, and when a year is mentioned in history, it is so computed in the mind of almost every reader, unless otherwise expressed, it would seem to be most proper to refer the date of the patent or commission to Cabot and his sons to the year 1496. For the same reason also, the author has thought it best, throughout this work to adjust the chronology of it according to what is called *new style*, commencing the year always on the first of January. It is hoped, therefore, that although the date of this commission is a matter of little importance, yet, as the same variance in the commencement of the year pervades every part of the early history of the British colonies in America, the reader will excuse the length of this note.

NOTE (B) p. 24.

Mr. Holmes, in his "American Annals," Note I, at the end of his first volume, expresses himself as satisfied, that Cabot sailed as far

south as Cape Florida. It is with great diffidence, that I venture on an opinion different from that of so accurate and judicious a writer. The passage which he cites from Peter Martyr, as the ground-work of his opinion, is according to him, thus: "*Quare coactus fuit, uti ait, vela vertere, et occidentem sequi: tetenditque tantum ad meridiem, littore sese incurvante, ut Herculei freti latitudinis ferè gradum æquarrit: ad occidentemque profectus tantum est, ut Cubam insulam à lævo, longitudine graduum penè parem, habuerit.*" To which he immediately afterwards adds,—“Obscure as this passage is, it satisfies me, that Cabot sailed to Cape Florida, which lies in 25 deg. 20 min. north lat.” From the manner in which the last sentence of the above passage from Peter Martyr, is printed in his “Annals,” (to wit: in *Italics*;) it is to be inferred, that he laid a stress upon this sentence in particular, as warranting the opinion he gives. But to come fairly at the meaning of the passage, every part of it should be taken into consideration; and it may be thus rendered into English: “Wherefore he was forced, as he says, to turn his course toward the west; and he stretched so far *to the south*, the shore bending in, as to be almost in the same degree of *latitude* as the Mediterranean: and he went so far *to the west*, as to have the island of Cuba lying on his left hand, almost equal in the *longitude* of degrees.” That the word “meridiem” is here to be rendered *south* is evident, not only because it is often so used according to the best Latin dictionaries, but that otherwise it would be here unintelligible, unless indeed it should be said to mean, “towards the equinoctial line;” in which, it would be synonymous to *south* in this case. (N. B. In pope Alexander’s bull, in 1493, before referred to, which is published at large in the original Latin, in Hazard’s Collections, Vol. 1, p. 5, the word “meridiem” is used as synonymous to *Antarctic* or South Pole.) Then the extent of Cabot’s voyage *to the south*, is here very clearly confined *to the same degree of latitude as the Mediterranean*; almost to it, but certainly not beyond it. Now, the mouth of the Mediterranean, or Straits of Gibraltar, are well known to be in about 36° north lat., which brings the voyage here spoken of, along the coast of America no further *south* than Roanoke, or Albemarle Sound, in North Carolina. But the word “ferè,” *almost*, is not to be altogether rejected as a mere expletive; it plainly intimates that Cabot did not come down to the 36th degree of north latitude, and being indefinite as to the precise minute or degree above 36°, leaves the extent of his voyage *southerly*, to be collected from circumstances

only, with this express restriction, that it did not reach quite to 36°. A strong inference is to be drawn also, from the agreement of so many respectable historians, besides *Oldmixon*, before-cited in the text, who speak of Cabot's voyage, as extending *southerly* only to the 38th degree of north latitude. *Harris*, in his *Collection of Voyages*, Vol. 2, p. 191, edit. 1748, and *Robertson*, in his *History of Virginia*, both limit it to the 38th degree. There must have been some solid ground for this coincidence of opinion. *Harris* cites *Robert Fabian*, as expressing himself, that Cabot sailed to the 56th deg. of north lat., "and from thence he ran down to the 38°, along the coast of the continent of America, which, as he (Fabian) says, was afterwards called Florida." *Fabian* lived and wrote in the reign of Henry VII, and must have had some substantial authority for fixing it to the 38°; most probably, from the *Journal of the Voyage*, then newly published, and fresh in the memory of every literary man. This agrees also, with what is a well known historical fact, that the Spaniards, after *Ponce de Leon's* discovery of Florida, gave that name indefinitely, to the whole of the coast connected with the land he discovered, as appears from their subsequent claims, in virtue thereof, to both the Carolinas, even as high up as the 37° of latitude. (See *Harris's Voyages*, Vol. 2, p. 275. *Mod. Univ. Hist.* Vol. 44, p. 41.) To proceed, however, with the above extract from *Peter Martyr*, particularly upon that part printed in Italics by *Holmes*, and on which he seems to rely: "ad occidentemque profectus tantum est, ut Cubam insulam à lævo, longitudine graduum penè parem, habuerit." Although this passage is obscure, as he observes, yet I think it may be understood without carrying Cabot down to Cape Florida. Having ascertained how far *south*, or towards the Equinoctial, Cabot went, to wit: not further than the latitude of the Mediterranean, *Peter Martyr* then proceeds to show how far *west* he went, and in doing this, he attempts to ascertain the degree of *longitude* to which he went *west*; and it is well known, that the only way of ascertaining the situation of places on the globe, is by ascertaining their latitude and longitude. When he makes use of the expression, "longitudine graduum," longitude of degrees, I understand him to mean *longitude* as ascertained by the *degrees* on the equator, in the same manner as *longitude* is now and was then, calculated from some first meridian, and in contradistinction to the longitude or length of distance, which the ship had run from her place of departure. But the longitude of Cape *Maize*, the easternmost end of the island of

Cuba, is $74^{\circ}, 25'$, west from London, as appears from the most authentic tables and maps of the West Indies. A meridian line drawn through Cape Maize, would intersect the coast of North America a little to the north of Cape May, one of the capes of Delaware bay, in about 39° of north latitude. The coast there trending southwesterly, Cabot might still be said to have proceeded *westerly* as soon as he reached the 39° of latitude; and thus proceeding westerly, he might with perfect propriety, be said to have the island of Cuba on his left hand, as soon as he had passed the meridian of Cape Maize, above-mentioned. Then from Cape May to the 38° of latitude, (the point of division on the coast, between the states of Maryland and Virginia,) which is contended to be the utmost extent of his voyage towards the *south*, he was sailing with Cuba on his left, agreeable to the passage in Peter Martyr, and still more so, if it is supposed that he extended his coasting voyage to the 36° of latitude. It ought to be remembered, that Peter Martyr and Sebastian Cabot were cotemporaries. When Martyr, therefore, wrote his book *De Orbe Novo*, from whence the preceding passage was probably extracted, his knowledge of the coast of North America, in a relative situation to that of Cuba, must have been very limited indeed; and possessed, as most navigators were at that time, with the idea of there being a free passage to the East Indies by holding a *western* course, he might with no great impropriety have expressed himself as he did with regard to Cuba, and yet not have meant that Cabot had continued his route as far as Cape Florida. An additional reason for this supposition, might be drawn from the words "*penè parem*," almost equal; not quite to the same degree of longitude as Cuba, but *almost* to it. But if he had sailed to Cape Florida, he would have been not only almost to the same degree of longitude, but almost past it, or very near to the western extremity of that island. It would be difficult also, in such case, to reconcile the limitation which Martyr had just before given, to what may be called the *southing* of Cabot's voyage, when he expressly confines it to the northward of the latitude of the Herculean sea, which without doubt, means the mouth of the Mediterranean, and which is, as before-mentioned, in about 36° north latitude.

It may not be improper also, to make a few observations on one of the authorities cited by Mr. Holmes, (*Annals*, Vol. 1, p. 18, note 2, sub anno 1497,) in support or illustration of the extent of Cabot's voyage, to wit: the *Mod. Univ. Hist.* Vol. 40, p. 378. Although that vo-

luminous historical compilation is a most useful work, yet, as Doctor Johnson has somewhere observed, it has been executed in a very *unequal* manner; which seems indeed to be an unavoidable result, from its being the joint labour of several men of unequal talents, learning, or industry. In that part which relates to America, especially in respect to Florida, it does not appear to have been done with that fidelity to historical truth, which ought ever to be the polar star of an historian. About the time when these volumes, which relate to America, were compiled, the British and Spanish nations were at war, and the two Floridas presented to the view of the former, a very convenient *arrondissement* to their colonies on the continent of North America. In the 39th Vol. p. 127, they speak of an expedition, which was at that time fitting out by the British for the conquest of Florida, and in the same Vol. p. 123, 129, 234, they manifestly endeavour to impress their readers with the idea, that Great Britain had just pretences to a prior right to that part of America by reason of the prior discovery of it by Sebastian Cabot; though in the same volume, p. 129, they acknowledge that this prior right of discovery, was the only support of their claim. Accordingly, in the 40th Vol. p. 378, (the place cited by Holmes, in his Annals,) which appears to have been written just after the acquisition of Florida by Great Britain, by the treaty of peace in 1763, acknowledging in the text, that the question, who were the first discoverers of Florida? was a common topic, much agitated, but little known, and confessing that the whole dispute was then immaterial on account of the late cession of that country under the treaty; they nevertheless subjoin thereto a note, and insert the same again in the text, in Vol. 44, p. 2, and 41: containing proof, as they suggest, from Sebastian's own words in 1496, that Florida was discovered by Sebastian Cabot long before Ponce de Leon's voyage. The passage they cite for that purpose, though they do not say from whence they take it, after describing how far Cabot explored the continent northward, makes him to say, "I turned back again, and sailed down by the coast of that land, toward the equinoctial, (ever with an intent to find the said passage to India,) and came to that part of this firm land which is now called *Florida*, where my victuals failing, I departed from thence, and returned to England." But whoever attends to what was before observed, that the Spaniards, in virtue of Ponce de Leon's discoveries, claimed all the southern part of the continent of North America to an indefinite extent northward, at least so as to comprehend the Caroli-

nas, and that the name of Florida, was by them so indefinitely applied to all that part of the coast along those states, will at once perceive, that this passage by no means proves what it was cited for. Cabot might have sailed "to that part of the firm land *then* called Florida," and yet sailed no further south than the 38th or 36° of north latitude. It clearly then appears, that what the authors of the *Mod. Univ. Hist.* have said upon the subject, cannot be admitted as very cogent authority.

NOTE (C) p. 24.

History seems to present mankind to our view only in three distinct states or conditions: the hunter, the pastoral, and the agricultural. In the first of these, which is that in which the aborigines of North America were found by Europeans, the human race necessarily requires a greater superficies of the earth for its support and existence, than in either of the other two. But as it is manifest, that if all nations resolved to live in this state, there would not be sufficient room on the earth for even the present number of its inhabitants, without any future multiplication thereof, it seems necessarily to follow, that it is lawful to compel those who live in this manner, either to occupy as small a space of country as possible for them in this state, or to forsake that mode of life and become cultivators of the earth. From hence it is obvious, that our ancestors, the English, were guilty of no infringement of natural right, when they attempted to occupy a portion of the continent of North America, whereon a few tribes of savages were scattered in thin population, and whose subsistence principally depended on the prey of the forest. While no wanton cruelties were practised towards them, nor offensive violence was offered to their persons or personal rights, there seems to have been no injustice in compelling them, either to contract their limits, or to cede a portion of their territory to those of their fellow-creatures who would cultivate and improve it. It must be observed, however, that this reasoning does not go in justification of the conduct of the Spaniards in the conquest of either Mexico or Peru, for there civilization had carried the population of the earth to nearly as high a pitch as in the most improved countries of Europe.

The question, then, on the rights of prior *discovery* or prior *occupation* with respect to America, seems to have been chiefly confined to the contests between Europeans for their respective portions of that

extensive continent. The general reasoning, just before used, seems to oppose the idea, that a right resulting to one nation merely from first *discovering* an island or continent, without some actual *occupancy* thereof following such discovery in a reasonable time, should forever thereafter preclude another nation from taking possession of the same. The manifest inconvenience to mankind, which would result from this principle, if allowed, appears to demonstrate its absurdity. The right of prior *discovery* is then, necessarily dependent on subsequent *occupancy*; and as independent nations never have yet agreed to fix any precise limited time, within which the latter shall follow the former, the question, like all others in the law of nations, rests on the *reasonable* construction of mankind. It is upon this construction, and not on the pretended right of prior discovery by Cabot, that the English nation were justifiable in taking possession of that part of the continent afterwards denominated by them South Carolina and Georgia. It had been long abandoned by both the French and Spaniards, was derelict property, and was then unoccupied by either of those nations.

It must be confessed, that considerable difficulty often attends the right of occupancy with respect to the *limits* or extent of the territory, which shall be said to be so gained by occupancy. Where a colony of a few hundreds of individuals sit down upon so extensive a continent as America, or as either the northern or southern half of it, it would be absurd to say, that such an occupancy would entitle them to the whole of such a continent. Some limitation to such a right must always be made; and what this should be, has for the most part occasioned the many contests, which have taken place between European powers, in regard to America. The ignorance of the people of Europe, of the great extent of the continent of North America towards the northwest, at the time of their first emigrations thereto, will in some measure apologise for the English monarchs in granting, and for their subjects in requesting patents of colonisation, comprehending such enormous territories as some of them did, extending in parallelograms of the surface of the earth from the Atlantic to the Pacific Oceans. And yet on such a grant, was it seriously contended, at the time of the first colonisation of Maryland, that it was unjust to lop off from Virginia even so small a portion of that extensive dominion, as now composes the former state. This indeed, was only a contest between the subjects of the same sovereign. More serious bickerings,

producing one or two long and bloody wars, afterwards occurred between the maritime powers of Europe, with respect to America ; and yet, no sure and permanent rule has yet been ascertained. The claims of the French, while they possessed Canada, in virtue of their right to that province, would have hedged in the British colonies, within that narrow slip of the continent which lies between the Allegany mountains and the coast ; but the right was decided, without recurring to the principle, on the plains of Abraham. The Spaniards, who seem least of all to set any bounds to their claims both of discovery and occupancy, brought the subject into litigation between them and England, in the year 1771, by pretending, that because the Faulkland or Malouine islands lay within a hundred leagues of the Straits of Magellan, they were to be considered as a part of South America, and therefore their undoubted property, by the rights of both discovery and occupancy. The superiority of the British navy, however, compelled the Spanish court to the mortifying necessity of disavowing the violence, which the Spaniards had been guilty of, in dispossessing the British of those islands, and to give orders, that things should be restored precisely to the state in which they were before that outrage, contenting themselves with gravely declaring at the same time, that this should not affect the question, of the prior right of sovereignty over those islands. The uncertain extent of the claim of occupancy, was again exhibited, in a subsequent contention between the same nations, in the year 1790, relative to a small settlement made by the British in a part of the northwest coast of America, called *Nootka* sound, lying in about 50° of north latitude. In the year 1788, a party of English, with intent to establish a fur-trade on this coast, purchased some land of the Indian chief at this sound, built a house thereon, and erected a fortification for their protection. While they were thus in possession of the country at this place, a squadron of Spanish ships arrived, seized their vessels and stock of furs, and dispossessed them of their settlement. The Spaniards could have had at this time, no actual settlement or occupation of the coast, higher up than a place called *San Francisco* ; which, according to a journal of a voyage made by an American captain in that trade, in the year 1804, (published in the American Register for 1808,) was even at that time the most northern *Presideo* or district of the Spaniards on that coast, and which is, as he says, in the latitude of $37^{\circ}, 47'$, so that a space of the continent along the coast, of twelve degrees at least, about eight hundred miles, intervened

between that *Presideo* and the place where the English attempted a settlement. It ought to be observed, that this same journalist explains a *Presideo* to consist only of a missionary or priest, for the conversion of the Indians, with a guard for him of five Spanish soldiers, under the command of a serjeant or corporal; which could scarcely be called a colony or settlement for the occupation of the country. But the Spanish claim did not stop at *Nootka* sound, but extended as high as the Russian settlement or colony at Prince William's sound or Cook's river, which is in about sixty degrees of north latitude; so that they would claim a coast of fourteen hundred miles in extent, without a single Spaniard settled thereon. It might be presumed that so haughty a nation as the English, would not yield to this. Atonement and compensation were demanded. The result was a *convention* between the two nations, signed by their respective ministers, on the 28th of October, 1790, in which, after the stipulation for a restoration of the settlement, and compensation for the injury to the British subjects, a principle seems to be recognised, whereby each nation was at liberty "to carry on commerce, or make settlements on the coasts of the Pacific Ocean or South Seas, *in places not already occupied*; subject nevertheless to the restriction, that the British should not navigate or carry on their fishery in the said seas, *within the space of ten leagues* from any part of the coast *already occupied* by Spain." The Spaniards appear to have here surrendered their claim under a right of *prior discovery* of the continent; and it would seem, that although the limits of ten leagues is here applied to the fisheries on the coast, yet it would probably operate also as a limitation to the right of occupancy. But, from these circumstances we may infer, that neither of these three nations will be disposed to pay much regard to the claim of our young American states to their share of this coast, as a part of Louisiana. However, a sufficiency of our purchase from the emperor Napoleon, will probably still remain on the western side of the Mississippi, for the formation of many sister states. We have only to wish, that our *union* may live to see it.

NOTE (D) p. 49.

The statutes here alluded to were the 5 *Rich.* 2, c. 2; 13 *Eliz.* c. 3; and 14 *Eliz.* c. 6. By the first of these, (viz 5 *Rich.* 2.) "all manner of people, as well clerks" (clergymen) "as others, (except only the lords and other great men of the realm, and true and notable mer-

chants, and the king's soldiers,) were prohibited from passing out of the realm without the king's special license, upon pain of forfeiture of all their goods; and the master of any vessel, who carried such persons out of the realm, should forfeit such vessel." By the statute of 13 *Eliz.* "If any native or denizen of the realm should depart the realm without the queen's license, and should not return again within six months either after warning by proclamation, or after the expiration of his license, he should forfeit to the queen the profits of all his lands during his life, and also all his goods and chattels. Fraudulent assurances made by fugitives of their lands and goods, to deceive the queen, should be void; but the offender should have restitution upon submission." The statute of 14 *Eliz.* only regulated the mode in which the queen should take the profits of the lands of fugitives. The two last of these statutes, (*viz.* those in the reign of *Eliz.*) being temporary, expired at the queen's death. *Dyer*, 176, b. note (30.) That of 5 *Rich.* 2, was repealed in the next reign after Elizabeth, by the statute of 4 *Jac.* 1, c. 1. Notwithstanding this, a clause of dispensation of "the statute of fugitives," is inserted in the ninth section of the charter of Maryland, granted to lord Baltimore, in 1632 (8 *Car.* 1.) The repeal of the statute of 5 *Rich.* 2, by that of 4 *Jac.* 1, might possibly have been construed to extend only to Scotland, to which the whole of the statute of 4 *Jac.* 1, seems to relate, and appears to have been made solely to remedy inconveniencies, which would otherwise have accrued from the recent union of the two kingdoms. All of these three first-mentioned statutes, however, were in force at the time when Sir Humphrey Gilbert obtained his patent, and a special dispensation was therefore essentially necessary, (inasmuch as dispensations were then held to be legal.) for such persons as should go out of the realm, even with the laudable intention of settling a colony. In those times there seems to have been some doubt also, whether the common law, without any statute for that purpose, did not prohibit any subject from going out of the realm, without special license previously obtained. *Dyer*, 165, b. 3 *Inst.* 178. *Lane* 43.—The common law on this subject, as well as the before-mentioned statutes, evidently originated from the intolerable interference practised by the popes of Rome, during the reigns of Edward III. and Richard II, in the political transactions not only of England, but of every nation in Europe. Subjects were invited to Rome to concert schemes, ostensibly for the good of the church, but in reality to carry

on operations against their own government, and though committing the most atrocious acts of treason, were assured of the powerful protection of the Roman pontiff. But the common law seems to be now settled, that every man may go out of the realm, for whatever cause he pleaseth, without any license for that purpose; though it seems to be settled also, that the king by his prerogative, and without any help of an act of parliament, may prohibit his subjects from so doing; but this must be done by some express prohibition, as by laying on an embargo, or by writ of *Ne exeat regno*, which writ is never granted *universally*, but only to restrain a *particular* person, upon oath made, that he intends to go out of the realm. This writ appertains more particularly to a court of chancery, and is adopted as a common process of that court, to prevent debtors from absconding out of the jurisdiction of that court, with intent to evade the payment of debts, or to eloin property, 4 *Eac. Abr.* 168-9. 1 *Bl. Com.* 265. 3 *Brown's Ch. Rep.* 218. This we may suppose to be still the law in Maryland, since the writ of *Ne exeat provinciam*, in similar cases, seems to have been adopted as unquestionable practice in the Maryland court of chancery, prior to the revolution. See the case of *Somerville v. Johnson*, (Feb. 1770,) 1 *Harris & M'Henry's Rep.* 348, where it issued to prevent a person from removing and carrying with him, negroes from Maryland to Virginia, to which negroes the complainant had an equitable claim.

It is said also, that by the common law of England, the king may restrain his subjects from going abroad by *proclamation*, 4 *Bac. Abr.* 168. 4 *Bl. Com.* 122. This may be understood, as lawful in such cases as are spoken of by the writers on the Law of Nature and Nations, (particularly by Grotius and Burlamaqui,) where subjects leave the territories of the state in large companies.

The general right of expatriation, would involve a discussion of too much length, to be here introduced. It may, however, perhaps be excusable to suggest a doubt, whether the time is not now arrived, when true policy dictates, that the importation of foreigners into the United States, and their easy access to citizenship among us, should no longer be encouraged. It is very questionable indeed, whether the nature of our republican institutions would admit of a population of our extensive territories equal to that of an European state. That foreigners should be permitted to reside among us under the protection of our laws, without the political right of office or right of election; but that their children born here, should acquire citizenship by their birth,

in its fullest extent, seems to present to them no unreasonable hardship, and it is believed, would not operate much against the importation of them. The admission of foreign seamen also, to the protection of citizenship, must, in the nature of things, forever embroil us in quarrels with the most powerful maritime nation in Europe. Our situation in this respect, presents a new case in the Law of Nature and Nations. For one whole race of people, speaking the same language,—using the same habits and customs,—living under the same laws,—and connected by the ties of blood and family, to be suddenly disjoined, and placed under two distinct governments, is a political incident, the exact parallel of which is not to be found in the records of history. It is a case, which the writers upon National Law, have never contemplated, and their general reasoning, therefore, vague and inconclusive as it is, on the right of expatriation, can, in relation to Britain, have no application to us.

NOTE (E) p. 56.

Letter from Sir Humphrey Gilbert to Sir George Peckham, taken from Hazard's Collections, Vol. 1, p. 32.

Sir George, I departed from *Plymouth* on the eleventh of June with five saile, and on the thirteenth the Barke *Razley* ran from me in faire and cleere weather, having a large winde. I pray you solicit my brother *Razley* to make them an Example of all Knaves. On the third of August wee arrived at a port called *Saint John's*, and will put to the Seas from thence (God willing) so soon as our ships will be ready. Of the Newfoundland I will say nothing, until my next Letter. Be of good cheere, for if there were no better Expectation, it were a very rich demaynes, the country being very good, and full of sorts of victuall, as fish, both of the fresh-water and Sea-fish, Deere, Pheasants, Partridges, Swannes, and divers Fowles. I am in haste, you shall by every Messenger heare more at large. On the fifth of August, I entred here in the right of the crown of England, and have engraven the armes of *England*; divers *Spaniards*, *Portugals*, and other Strangers, witnessing the same. I can stay no longer; fare you well with my good Lady; and be of good cheere, for I have comforted my selfe, answerable to all my hopes.

From *Saint John's*, in the Newfoundland, the 8th of August, 1583.

Your's wholly to command,

No Man more,

HUM. GILBERT.

NOTE (F) p. 63.

As a supplement to the complimentary contest between the queen and Sir Walter, noticed in the text, may be read a letter which he wrote to Sir Robert

Cecil, (with a view, without doubt, of having it shown to the queen,) during his short imprisonment, for having incurred her displeasure on an interesting occasion many years after his first introduction at court: "My heart was never broke till this day, that I hear the queen goes away so far off, whom I have followed so many years, with so great love and desire, in so many journeys, and am now left behind her in a dark prison all alone. I, that was wont to behold her riding like Alexander, hunting like Diana, walking like Venus, the gentle wind blowing her fair hair about her pure cheeks like a nymph, sometimes sitting in the shade like a goddess, sometimes singing like an angel, sometimes playing like Orpheus; behold the sorrow of this world! once amiss hath bereaved me of all. All these times past, the loves, the sighs, the sorrows, the desires, cannot they weigh down one frail misfortune? Can not one drop of gall be hid in so great heaps of sweetness? I may then conclude, *Spes et fortuna, valete.*" It is to be remarked, (adds Hume, Hist. of Eng. ch. 44, note (S), that this nymph, Venus, goddess, angel, was then about sixty.

The imprisonment, alluded to in the above letter, seems to be explained by an anecdote, mentioned by Sir Walter's biographer, in his life prefixed to his History of the World, (3d edition, 1687,) as occurring about the year 1595: "Sir Walter having now deserted his naval employ, and become again a courtier, it was not long before he was seized with the idle court-disease of love, the unfortunate occasion of the worst action of his whole life. For in the year 1595, I find him under a cloud, banished the court, and his mistress's favour withdrawn, *for degrading a maid of honour.* But why for this one action he should lie under the imputation of an atheist, and from a single crime get the denomination of a debauch, is the logic of none but the vulgar. But, to stop the mouth of fame, which is always open on such occasions, and to wipe out the infamy of the fact, he was shortly after married to the object of his love, the deflowered lady. Having, therefore, obtained his liberty, (for, *for this action he was imprisoned some months,*) and finding all things with an unpleasant aspect, he followed his genius of discovering new places, and tracing nature in her more retired and hidden parts, thinking that absence, and a fortunate voyage, might reinvest him in his mistress's thoughts, and merit a new esteem." He set out, in the same year, it seems, on a voyage to Guiana, (for, by this time, he had assigned away all his right to the territories of Virginia,) and on his return, as he had conjectured, appears to have been somewhat reinstated in the queen's favour, being again employed in her service.

NOTE (G) p. 126.

It is not unworthy of notice, that king James had, in a few years after this period, (between the years 1608 and 1612) another opportunity of exercising his talents for the arts of peace, in planting English colonies in the province of Ulster in Ireland, upon those extensive demesnes forfeited by the rebellion and flight of the earls of Tyrone and Tyrconnel. Similar attempts had been made in the reign of his predecessor Elizabeth, on the forfeiture of the estate of the earl of

Desmond in Munster; but, as Leland observes, "In those plantations the Irish and English had been mixed together, from a fond imagination, that the one would have learned civility and industry from the other. But experience had now discovered, that by this intercourse, the Irish learned only to envy the superior comforts of their English neighbours, and to take the advantage of a free access to their houses, to steal their goods and plot against their lives. It was, therefore, now deemed necessary to plant them in separate quarters.' From this passage of the Irish historian, (who was partial enough to his own countrymen,) as well as from his whole work, it would seem, that the aboriginal Irish were, at this period of time, very little, if any, more civilized than the Indians of America, at the time of the first settlement of Virginia. The English colonists had, therefore, nearly the same difficulties to encounter in the one country as in the other. This historian, on this occasion, gives honourable testimony in favour of the plans and designs of James, and further observes, that "Ireland must gratefully acknowledge, that here were the first foundations laid of its affluence and security." See Leland's Hist. of Ireland, Vol. 2, p. 430, 431; and Hume's Hist. of England, at the end of ch. 46, in the reign of James I.

NOTE (H) p. 152.

The author has to lament, that it has not been in his power to procure a sight of *Smith's History of Virginia*, in which, without doubt, this interesting voyage is more minutely described, and, in his map annexed to it, the places to which he first affixed names, more plainly delineated. An additional incentive to curiosity in this particular, arises from an allegation in the bill in chancery filed by the Penns, proprietors of Pennsylvania, and drawn by the celebrated lord Mansfield when acting as counsel for them, in the year 1735, against the lord Baltimore, for a specific performance of the agreement made between the said Penns and lord Baltimore, relative to the bounds of their two provinces, in which it is alleged, that "the tracts of land, granted to lord Baltimore and described in the charter, were so described and bounded by the help of captain Smith's History and Map of what was then called Virginia, and no other, and so all skilfull persons do own, acknowledge, and believe, which manifestly appears, for that the said map has all and every of the names of the several places which are contained and mentioned in the said letters patent, and no other map or maps whatsoever, which was extant in the year 1632, and at the time of granting the said letters patent, (save only the said Smith's map of Virginia,) hath or have the names and descriptions of the several places mentioned in the said letters patent." What is related in the text is taken from a note in *Burk's History of Virginia*, (Vol. 1, p. 120,) in which he gives what he calls "a summary of Smith's route." It is as follows: "From Cape Henry, Smith visited the islands, called after him Smith's islands; thence to Russell's islands, now called *Tanger's islands*; coasted along Eastern Shore, till he reached the river Wighcomoco, now called *Pocomoke*; departing saw

a high point of land, which he named Point *Ployer*: calls the shoals near a cluster of islands, Limbo, since called Watt's islands. Stood over again to Eastern Shore, and discovered a river called Cuscarawacock. On this river lived the nations of Sarpinak, Nause, Arseck, and Nantaquack, the best merchants and greatest traders in those parts. They told the English of a great nation called Wassawomecks, in search of whom, Smith returned by Limbo, into the bay. Leaves the shallows of the Eastern Shore, and falls in on the western side, above the mouth of Patuxen—Calls the first navigable river *Bolus* river, now called Patapsco, in Maryland." Much of this note in Burk's History, is rendered unintelligible, by a confusion of names, not only in this short "Summary," but even by the most modern map-makers. The summary mentions, that "he coasted along the Eastern Shore, till he reached the river Wighcomoco, now called Pocomoke." But, as there are two distinct rivers in that part of the state of Maryland, yet well known by the names *Wighcomoco* and *Pocomoke*, the latter being the most southern, dividing the counties of Somerset and Worcester, and emptying itself, as before-mentioned, into Pocomoke bay below Watkins's Point, the former a little further northward above Watkins's Point, and emptying itself, together with the rivers Manokin and Nanticoke, into what is called Fishing bay, there seems at first view, to be some uncertainty in fixing the location of the river here called Wighcomoco. However, as the lord Baltimore's letters patent or charter of Maryland, describes Watkins's Point, as situated upon the bay, "near the river Wighco," (*prope fluxum de Wighco*), and as Pocomoke agrees with that description better than Wighcomoco in Somerset, (the river Manokin being between that river and Watkins's Point,) and moreover, as the name *Wighco*, is affixed to the Pocomoke, in the map annexed to the articles of agreement entered into between the lord Baltimore and the proprietaries of Pennsylvania, on the 10th of May, 1732, (referred to in the before-mentioned bill in chancery, a copy of which map is now before me,) it would seem, that the river called *Wighco*, in the "Summary of Smith's route," must have been the same as that now called Pocomoke, as is therein alleged. It is worthy of notice, that the word *Wighco*, or *Quigogh*, or *Wighcomoco*, was a name very frequently affixed to rivers by the Indians, there being another river of that name in Maryland, separating the counties of St. Mary's and Charles, and another in Virginia, at the mouth of the Patowmack.

Considerable confusion arises also, from the different names given to these islands, not only in the Summary, but even in the two latest and best maps of the states of Maryland and Virginia. In that of Maryland, published in 1794, by Dennis Griffith, the first islands which Smith would naturally meet with in ascending the Bay of Chesapeake, they being the most southernly cluster below and south of the larger island, called Smith's island, are denominated Tangier islands; but in that of Virginia, published by bishop Madison, in 1807, the same islands are denominated Watts's islands; and the islands above and north of the above-mentioned larger island, called Smith's island, are

denominated the *Tangier* islands; which same islands, so north of Smith's island, are, in Griffith's map, denominated Holland's islands. These maps differ more than might be expected, also in the *latitudes* of these islands, and in their situation in relation to the opposite shores of the bay. In both maps, the line of the thirty-eighth degree of latitude, (the division between Maryland and Virginia,) intersects Watkins's point nearly in the same proportion; but in Griffith's map the line intersects the larger island, called Smith's island, nearly at its most *southern* extremity, so as to place nearly the whole of the island in the state of Maryland, while in that of bishop^{*} Madison this island is placed so that its most *northern* extremity is at least two minutes below and south of Watkyns's Point, and somewhat more south of the line of the 38th degree of latitude, by which means the whole of Smith's island is represented as belonging to the state of Virginia. Thus from this disagreement between these two maps, both made upon a large scale, a further difficulty in understanding this "Summary" is superadded to that which resulted from a change in the *names* of the places.

It is worthy of observation, however, that it seems to be the opinion of the best mathematicians and geographers, that it is impossible, with the best instruments, to fix any degree of latitude to a precise point. The uncertainty is such as to vary, according to some, to the difference of two or three miles; according to others there is uncertainty in coming within seventeen miles. This circumstance was dwelt upon by lord Hardwicke, in the great case of the *Penna v. lord Baltimore*, (before alluded to in 1 *Vesey*, 452,) in which the true situation of Cape Henlopen came in question. He took occasion also, in that case to remark, that the computations of latitude, at the time of the lord Baltimore's charter varied much from what they were at present; and that they were set much lower anciently than what they are now; as appears (as he said) by Mr. Smith's book, which is of reputation; but (says he) I do not rely on that; for the fact is certainly so.

We are left to conjecture also, in ascertaining what river is meant in the above-mentioned summary, by that called *Cuscarawacock*. As one of the nations or tribes, which are said to have lived on it, was called *Nantaquack*, there is much probability, from the similitude of sound, as well as their local situation, that this nation was the same as that which has been long known by the name of *Nanticokes*, inhabiting on the banks of the Nanticoke river.—There arises a presumption, therefore, that the river then called Cuscarawacock is that now called Nanticoke, and that the place of Smith's interview with the several tribes before-mentioned, collected together there, most probably by curiosity, was at the point of land or peninsula, dividing the rivers Wighcomoco and Nanticoke, and which is called in Griffith's map Nanticoke-point. If it be true, as Mr. Thompson alleges, that the Nanticokes formerly resided at the head of the bay, it is not improbable, that the name of the Cuscarawacock was changed to that of Nanticoke, in some course of time after their residence on it. The apparent terror expressed by them to Smith

of the Wassawomecks, is some corroboration of the supposition, that they once resided at the head of the bay, and were driven thence by the Wassawomecks to seek a habitation in the lower parts of it.

NOTE (I) p. 164.

The principal use of the notice we have taken of this abortive attempt to settle a colony in Newfoundland, is to show a probable chain of connexion between this and a subsequent attempt made by the lord Baltimore, afterwards the proprietary of the province of Maryland, to make a settlement on that island, in a province there, which was granted to him under the name of Avalon. Notwithstanding the partiality which king James evidently had for the English Catholics, yet a very great majority of the nation being Protestants of one description or another, he was obliged to give way to the inclinations of that majority. Hence the penal laws against Papists, though against his wishes, were rigidly enforced throughout the kingdom. A few great men, however, by temporising and professing themselves of the Church of England, though really Catholics, were received at court by James with great cordiality. Among these was Henry Howard, earl of Northampton, one of the patentees of the grant here referred to. An additional cause also operated on the mind of James, which was the attachment which had been manifested by the Howard family to his mother, Mary, queen of Scots. This Henry Howard was the younger brother of Thomas Howard, fourth duke of Norfolk, who was beheaded in the reign of Elizabeth, for holding a treasonable correspondence with the queen of Scots. "Alas!" said Mary, when she was told of his death, "what have the noble house of the Howards suffered on my account!" James entered into all these feelings. He had scarcely arrived in London, on his first accession to the throne, before he restored to the family their lost honours, and created Henry earl of Northampton, who in complaisance to James, professed himself a Protestant. The main branch of the family, however, that is, Thomas Howard's son, and grandson, and their descendents, continued Catholics until about the middle of George the third's reign. Henry made use of his favour with James, on all occasions, to befriend the Papists. Being warden of the Cinque Ports, he connived at the entrance of the jesuits and Romish priests into the kingdom, though he thought it proper to institute his suit of scandalum magnatum, in the star chamber, against some persons who happened to talk of this. Rapin says, that the truth of the report was proved by a letter under the earl's own hand to cardinal Bellarmine, which the archbishop of Canterbury (George Abbott, who was so opposed to popery that he was called a Puritan,) produced on the trial, and that upon this letter the parties accused were discharged, but in the report of the case by *Moore*, (see *Moore's Rep.* 821), it is said, that they were grievously fined. In a little more than a year afterwards the earl died, on the 15th of June, 1614; and, what corroborated the truth of the charges against him, he declared in his last will and testament, that he had always been a Catholic, and would die in that religion.

Hypocrisy being most commonly the mother of every vice, it is almost unnecessary to add, that historians have drawn his character in the most odious colours. It is very certain, that he was deeply concerned with his niece in the poisoning of Sir Thomas Overbury, in order to facilitate her marriage with Carr, the king's favourite.

Viewing this man's character, and the situation of the Papists at this period of time, we are unavoidably led to connect his intentions in sending out this colony to Newfoundland, with those of Sir George Calvert, in about eleven years afterwards, whose motives were honestly and openly professed to be, that of forming an asylum for the Catholics. What inducements operated with lord Bacon, Mr. Justice Dodderidge, lord chief baron Tanfield, and others of the patentees less known, we are not informed; and are therefore to attribute to them the laudable motive of pursuing the public good, though perhaps blended with the prospect of private emolument. See *Rapin's Hist. of England*, Vol. 8, p. 8, 99, 101, 104, 131. *Hume's Hist.* Vol. 4, p. 247.

NOTE (K) p. 174.

Although the observations of Doctor Russell on indulgences, (in his *History of Modern Europe*, letter 53,) are here acceded to, yet it is not thereby meant to approve of his *hypercriticism* on what Mr. Hume has said on the same subject, in Note (A) to chap. 29, of his *Hist. of England*. Mr. Hume was endeavouring to show, that "the sale of indulgences was no more criminal than any other *cheat* of the church of Rome, or of any other church;" which led him to remark, that "after all these indulgences were promulgated, there still remained (besides hell-fire,) the punishment by the civil magistrate, the infamy of the world," (which last sanction, a very powerful one, is, by the by, omitted by Doctor Russell in his quotation,) "and secret remorse of conscience, *which are the great motives that operate on mankind.*" On which the Doctor has thought it proper to bestow the following extraordinary language: "Now the first of these assertions" (by which the Doctor can mean nothing else than the existence of hell-fire,) "is literally *false*; for the very words of an indulgence bore, that it restored the person to whom it was granted to that innocence and purity which he possessed at baptism; and according to the doctrine of the Romish church, the infant is then fit for Heaven. But the indulgence did not stop here; it concluded thus: 'so that when you die, the gates of punishment shall be shut, and the gates of the paradise of delight shall be opened.'" Notwithstanding Mr. Hume might have been here guilty of a small oversight, in not attending to the operation of an *indulgence*, in exempting the sinner from *hell-fire*—a circumstance, on which he appears to lay very little stress, and that too probably, only in compliment to the believers in Christianity, relying upon the other "great motives" to morality which he mentions, yet he evidently means here only to check the exuberant declamation of "Protestant writers," upon the effects of indulgences. Pronouncing the sale of indulgences to be a "cheat," like other pious frauds committed by other churches as well as the

Romish, he cannot fairly be said to be arguing in their favour. It must be acknowledged by those who suffer themselves to reason on such subjects, that the unbounded confidence, which is taught by modern fanatics to be placed in the efficiency of *faith*, in preference to *good works*, in obtaining salvation, has much the same pernicious effect on the *moral* conduct of human society, as the actual grant of indulgences by the supreme pontiff of Rome.

NOTE (L) p. 177.

There is not, perhaps, any sect of the original reformers, which has admitted of a greater number of subdivisions, than that of the Anabaptists. The doctrine of the baptism of adults, being somewhat more consistent with reason, than that of infants, it seems to have been greedily adopted by many of the first reformers. With this principle as a foundation, they frequently connected the most ridiculous and absurd tenets; still retaining, however, the name of Anabaptists. Several of them attempted, in the year 1535, at Amsterdam, to revive the doctrine of the Adamites, a Christian sect of the second century, whose principal tenet was to strip themselves naked during their religious ceremonies. These Anabaptists exceeded the Adamites, for they paraded the streets stark naked, both men and women. Another schism happened among the Anabaptists, about the same time, at Haerlem, in Holland. It owed its original, to the liberty which a young man there took, of putting his hand into the bosom of a young woman whom he loved, and had a mind to marry. This touch of her breast, came to the knowledge of their church; and thereupon they consulted what punishment the delinquent ought to suffer. Some maintained, that he ought to be excommunicated; others said, that his fault deserved favour, and would never consent to his excommunication. The dispute grew to such a height, that it caused a total rupture between the two parties. Those who declared for indulgence to the young man, were called *Mamillarians*, from *Mamille*, breasts. (See *Bayle's Hist. Dict. Artic. Adamites*, *Mamillarians*, and *Picards*.) A more inoffensive party of them, however, was formed about the same time, in Holland, by one of their principal chiefs, whose name was *Mennon*, from whom they took the name of *Mennonites*, and subsist to this day as a distinct sect, both in Europe and America. "Contrary to the mutinous and sanguinary principles of the original Anabaptists, they became altogether innocent and pacific. Holding it unlawful to wage war, or to accept of civil offices, they devote themselves entirely to the duties of private citizens; and by their industry and charity, endeavour to make reparation to human society, for the violence committed by their founders. A small number of this sect, which is settled in England, retains its peculiar tenets concerning baptism, but without any dangerous mixture of enthusiasm." (*Robertson's Hist. of Cha. V*, book 5th.) They hold the principle also, of refusing oaths; (*Proud's Hist. of Pennsylv. Vol. 2*, p. 342:) which is probably what is meant by Robertson, in their refusing to accept of civil offices. A very early instance, in regard to them, occurs: about the time of the first revolt of the

Dutch provinces from Spain, when only the two provinces of Zealand and Holland had become independent, the magistrates of the city of Middleburg, in Zealand, had prohibited the *Menists*, as they were then called, from carrying on trade, and had caused their shops to be shut up, because they refused to take the usual oaths to the state. The prince of Orange, who still retained his power, as governour of Zealand and Holland, after an admonitory letter to the magistrates, dated January 26th, 1577, issued express orders to them, not to molest the Menists on account of their refusing the oaths. See these letters and orders in a book published by the Quakers, when they applied to Charles II, of England, for the like liberty, in the year 1675, entitled "The Case of the people called Quakers, relating to oaths." The Menonists emigrated to Pennsylvania, where their principal settlement in America is, as early as the year 1698, some in 1706, 1709, and 1711, but most of them in 1717; when, in a very extraordinary manner as it appears, the Quakers of that province, notwithstanding the similarity of their tenets, expressed great uneasiness at their coming there. See *Proud's Hist. of Pennsylvania*, Vol. 2, p. 100. Acts of assembly in Maryland, provide for the indulgence of them in refusing oaths, putting their *affirmation* upon the same footing as that of the Quakers; but it is doubtful, whether any of them be settled in that state. Lancaster, the place of their principal residence, being in the neighbourhood of Maryland, it is possible that their frequent intercourse in that state, might have occasioned a legislative provision in their favour.

The Anabaptists, properly so called, are numerous in almost every state in the union. They are said to be "chiefly upon the Calvinistic plan as to *doctrines*, and *independents* in regard to church-government. *Morse's Geography*, artic. Pennsylvania. If we could place any confidence in an allegation made in a law of Massachusetts against them, in the year 1644, which must have been shortly after their first emigration to America, to wit: that "they denied the lawfulness of magistrates," it would seem, that they had not then relinquished all their dangerous tenets. But this allegation might have been made merely to cover the persecution against them. See the law in *Hazard's Collections*, Vol. 1, p. 538.

NOTE (M) p. 181.

The reader, it is hoped, will not be displeased with the insertion here of a description of the execution of Servetus, extracted from a MS. history of him, cited in a note on the same subject in *Roscoe's Pontificate of Leo X*, ch. 19. "Impositus est Servetus trunco ad terram posito, pedibus ad terram pertinentibus, capiti imposita est corona, straminea vel frondea, et ea sulphure conspersa, corpus palo alligatum ferrea catena, collum autem tunc fune crasso quadruplici aut quintuplici laxo; liber femori alligatus; ipse carnificem rogavit, ne se diu torqueret. Interea carnifex ignem in ejus conspectum, et deinde in orbem admovit. Homo, viso igne, ita horrendum exclamavit ut universum populum perterre fecerit. Cum diu langueret, fuerunt ex populo, qui fasci-

culos confertim conjecerunt. Ipse horrenda voce clamans, *Jesu, Fili Dei Eterni, miserere mei*. Post dimidiæ circiter horæ cruciatum expiravit." On this Roscoe remarks, that Calvin, who was apprehensive that the death of Servetus might entitle him to the rank of a martyr, thought it necessary to defame his memory, by asserting that he had no religion; and inhumanly attributed the natural expression of his feelings, on the approach of his horrible fate, to what he calls a *brutal stupidity*. "Ceterum ne male feriati nebulones, recordi hominis pervicacia quasi martyris glorientur, in ejus morte apparuit belluina stupiditas, unde judicium facere liceret, nihil unquam serio in religionem ipsum egisse. Ex quo mors ei denunciata est, nunc attonito similis hære, nunc alta suspiria edere, nunc instar lymphatici ejulare, Quod postremum tandem sic invaluit, ut tantum, hispanico more, reboaret, *Misericordia, Misericordia*." *Calvini Opus*. p. 101.—Was not this making a cruel scoff at the sufferings of this unfortunate man? And are we not as much surprised at the opinion expressed on Servetus's execution by a celebrated cotemporary reformer—Melancthon? "Miratus sum esse qui severitatem illam improbant."—But we find the principle of these intolerant sentiments recorded in Calvin's "Christian Institution"—"Si penes singulos jus et arbitrium erit judicandi nihil unquam certi constitui poterit, quin potius tota vacillabit religio." *Calv. Inst. lib. 4, p. 10. sect. 31*.—But we are told, that the followers of these reformers have left off these things, particularly in America; and that the excellent constitution of the United States gives unbounded freedom in matters of religion.—Vain deception!—The constitution of the United States, it is true, provides, in one of its amendments, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."—It is possible, that instances may occur, where this amendment to the constitution may be of some use; as appears from two recent cases in the late session (in 1810—11,) where the president thought it proper to interpose his *disapprobation* of two bills deemed by him unconstitutional under this clause. But as congress seldom have occasion to legislate on subjects of religion, the oppression of individuals in the enjoyment of their religious as well as civil rights, is most generally to be apprehended from the state governments. In most of the states the penalties of the *common law*, in matters of religion, still subsist. The bloody statutes also, of some of them, only sleep. Not being repealed they are liable to be called up into action at any moment when either superstition or fanaticism shall perceive a convenient time for it. What Jew, Socinian, or Deist, possessing a sound mind, would venture, in the state of Maryland for instance, to open his lips even in defence of his own religion!—Alas! (as Roscoe observes on this subject,) "The human mind, a slave in all ages, has rather changed its master, than freed itself from its servitude."

NOTE (N) p. 191.

In Tindal's edition of Rapin's Hist. of Engl. (vol. 7. p. 528,) it is suggested, that "the severities, which from this time" (to wit, that of making the sta-

tute of 35 *Eliz.* ch. 1.), "began to be exercised in England upon the nonconformists, were probably occasioned by the disturbances caused by Hacket and some other enthusiasts." This William Hacket, (according to the account of him given by *Bayle*, in his *Hist. Dict. art. Hacket*, which account seems to have been extracted principally from *Camden's Annals*,) was originally a servant to one Mr. Hussey in Northamptonshire. It was a practice with him to attend the sermons of the Puritan ministers, for the purpose of repeating them again to his acquaintance, and though illiterate, yet having a most retentive memory, he would over his cups with his companions, amuse them with a mock recital of their sermons. Being much addicted to drunkenness and debauchery, to support his expenses in that way he turned a highwayman. At last he set up for a prophet, and prophesied famine, pestilence, and war to England, unless it established the consistorial (or Calvinistic) discipline. He began to prophesy at York and Lincoln, for which, it seems, he was publicly whipped; probably on a prosecution against him at common law, as an impostor in religion; (for which see 1 *Harek.* ch. 5, sect. 3.) Having a wonderful fluency in extemporary prayer, he made the people believe, that it proceeded from an extraordinary gift of the Holy Ghost. He pretended to have a very great confidence in these prayers, for he said, that if all England should pray for rain, and he should pray to the contrary, it would not rain. He had the address to persuade two persons of some learning, Edmund Coppinger and Henry Arthington, to join him. Coppinger assumed the title of the *prophet of mercy*, and Arthington that of the *prophet of judgment*. They gave out, that they had an extraordinary mission, and that next to Jesus Christ none upon earth had greater power than William Hacket. They declared that he was the sole monarch of Europe. They would have proceeded to the ceremony of unction, but he would not suffer them, being already anointed, he said, by the Holy Ghost, in heaven. They asked him at last, what he had to command them, and protested they would pay an obedience without reserve. He ordered them to go and proclaim through all the streets of London, that Jesus Christ was come to judge the world. They immediately obeyed him. They drew together, by their bawling, such a concourse of people, that being come to Cheapside, they could go no further, nor be heard; but finding an empty cart, they mounted upon it and discoursed of the important mission of William Hacket. They said, that he partook of the nature of glorified bodies, and was to convert all Europe to the consistorial discipline; and that the power of judgment was committed to him. They prophesied, that all who refused to obey this king of all Europe, should kill one another, and that *the queen should be dethroned*.—Having thus, as faithful missionaries, propagated the doctrines of their lord and master, they returned to the inn where he lodged. As soon as Arthington approached his presence, he turned round to the people, who had followed them, and cried out, "Behold the king of the earth!" They were afterwards arrested, prosecuted, and tried for high treason; (it being plainly within the statute of 13 *Eliz.* ch. 1, at that time in force; see 1 *Harek's Hist. Pl. Cr.* 219.) When

they were on their trial, they refused to take their hats off before the judges, saying, *they were above the magistrates*. Hacket also, at the same time, expressed to the judges the most virulent invectives against the queen, and added, that his design was to rob her of her crown and life, and *change the whole form of the government*. Hacket was executed in pursuance of his sentence, which was, to be hanged and quartered. Coppinger starved himself to death in prison; and Arthington was pardoned. These disturbances in the streets of London occurred, (according to *Bayle*, as before-cited,) on the sixteenth of July, 1592, which was about six months prior to the making the statute of 35 *Eliz.* ch. 1.—It must be acknowledged, that these scenes too strongly indicated a renovation in England of the then recent excesses of the Anabaptists at Munster. When religion will thus forcibly mingle itself with the political proceedings of the government, reason pronounces the necessity of applying some curb to it. The happiness of the people, the supreme law, in such case demands it.

NOTE (O) p. 202.

Mr. Holmes, in his *Annals*, (in Note 5, at the end of his first volume,) has expressed considerable dissatisfaction with an *American historian*, for endeavouring to represent, that the Puritans removed from Leyden to America, because they were “obscure and unpersecuted.” He seems to allude to an expression of Mr. Marshall, in his *Life of Washington*, Vol. 1, p. 90, who says, that “their obscure situation at Leyden became irksome to them,” and “without persecution they made no converts.” But it is to be observed, that Marshall has on this occasion, only copied the expressions and observations used by Dr. Robertson in his *History of New England*, who could not be suspected of being an “advocate for the English hierarchy.” Besides, as it is in vain to deny, that the eclat attending the foundation of any religious sect, which shall happen to make a noise in the world, has considerable operation in the minds of the founders, whether they are sincere in their belief or not, there cannot be much impropriety in saying, that the dread of having their schemes to prove abortive, and their names to sink into *obscurity*, would not a little mingle with other considerations, however laudable or virtuous. It is equally in vain also, to deny, that *persecution* has, in many instances, contributed much to promote the growth of religious sects. Robinson’s sect being entirely destitute in Holland, of the nourishing dew of persecution, it was not too vague an inference, that, through want of this, they made fewer converts than they would otherwise have done. Without some of these means, by which a regular accession to their numbers could be made, it was evident, that old age, natural deaths, and the vexatious defection of their youth, so pathetically complained of, would in time work their annihilation.

Mr. Holmes is displeased also, that “the Puritans of Leyden and of New England are, *to this day*, represented as *Brownists*.” But it seems to be certain, however, from all the best historians of those times, that the first person

among the Puritans, who set up a separate congregation distinct from the Presbyterian, was Robert Brown. Whether he then introduced the exact church-discipline, afterwards established by Robinson, is immaterial. Brown being the first person who appeared in England at this time, among the Puritans, at the head of a visible congregation, of a sect entirely new, would naturally induce persons of other sects to give them a name; which they did, by calling them after their first apparent founder. It ought to be noticed, that it is not always in the power of any sect or religious society of people, to appropriate to themselves a fixed determinate denomination. Other men will fix it for them. Nor is it in their power to alter it, any more than the language generally spoken. This is verified by that of the Quakers, who to this day disclaim that name, it being a term of ridicule; but call themselves "Friends," a term which few people adopt when they speak of them. A book written by Robinson, entitled "A just and necessary apologie of certain Christians no less contumeliously than *commonly called Brownists or Barrowists*," is cited by Mr. Holmes, to show what were Robinson's principles; in which Robinson professes that their religion was the same as the Dutch Reformed Church, excepting something relative to the Apocrypha. That might be, and yet not be variant in doctrine from the church founded by Brown. But this citation of the title of Robinson's book is so far unfortunate, as to prove directly, that in the time of Robinson, according to his own acknowledgment, the members of his church were "commonly called Brownists;" and moreover, that the Brownists and these anonymous "certain Christians," were, according to the confession of the chief or leader of the latter, one and the same sect; which reduces it to the question, whether it was in their own power, or in that of other men, to alter or continue their former denomination. Analogous to this, is the title of a very learned and well-written book, by that great apostle of the Quakers, Robert Barclay: "An Apology for the True Christian Divinity, as the same is held forth, and preached by the people, *called in scorn*, Quakers;" in which he, in the same manner as Robinson, professes to set forth the principles of the Quakers, and expressly mentions, that "it was a name not of their choosing, but reproachfully cast upon them." But it would be ridiculous for any Quaker, who professed to belong to what they call The Society of Friends, to say, that he was no Quaker. In corroboration of what is here said, it may be proper to subjoin a short extract from No. I, of the Appendix to the second Vol. of Hutchinson's Hist. of Massachusetts: "I shall briefly touch upon their ecclesiastical affairs. I suppose this people were the first who took or received the name of Independents, which in a few years after was the name given to a body of men in England, who assumed the government there. *When they first went to Holland, they were known by the name of Brownists*. Some of the characteristics of Brownism, they afterwards disclaimed, and at the same time disclaimed the name, which was generally odious; the character of the founder of the sect, being at best, problematical. Besides, he renounced his principles, and returned to episcopacy. The Puritans they could not conform to, and there-

fore considered themselves as a distinct church or by themselves, independent of all other." Who are meant here, "by the Puritans to whom they could not conform," unless they are the English Presbyterians, it is difficult to conceive. However, it shows, that *when they first went to Holland, they were known by the name of Brownists*; but that Brown, by his apostacy, having brought the name into discredit, they began to be ashamed of it. To this may be added, that Sir William Temple, in his excellent "Observations on the United Provinces," which he wrote about the year 1670, mentions the *Brownists* among other sects, "whose names were then almost worn out in all other parts," as a sect then and there existing by *that name*; which sect must certainly have been, the remains of either Robinson's or Smith's congregations at Amsterdam or Leyden.

Mr. Holmes also represents Robinson as "a man of learning, of piety, and of Catholicism;" and in Hutchinson's Hist. of Massachusetts, Vol. 2, Appendix, "he is said to have been a man of *good learning*, and of a *benevolent disposition*;" where is mentioned, (we may suppose by way of confirmation of his character for learning,) that he was persuaded by Polyander, one of the divinity-professors in the university of Leyden, to dispute publicly with Episcopus, another divinity-professor in the same university, on the religious tenets of the Armenians, a new sect then lately risen in Holland. When we read and reflect upon the troubles and distresses, which befel the persons who professed the Armenian tenets in Holland about this time, persecuted throughout all the provinces more inveterately than the Puritans were in England, whatever "honour and respect" Mr. Robinson might have acquired from his disputation with Episcopus, it certainly was no evidence of his "benevolent disposition." The Gormarists, who were Calvinists, like the established Church in England, would tolerate no dissenters from their principles. The Armenians differed from them only with regard to the unintelligible mysteries of predestination, election, justification, and grace. If Robinson had one spark of a "benevolent disposition," he would not have joined the cry of persecution, in hunting down a sect for such differences of opinion, especially when these Armenians could boast, of having then at their head, such men as the patriotic Barneveldt and the learned Grotius.

NOTE (P) p. 217.

I am well aware, that the Gallican Church, in the latter end of the seventeenth century, made, under the auspices of Louis XIV, a noble stand against the encroachments of the papal power. Had the *four articles*, contained in the declaration made by the general assembly of the French clergy, on the 19th of March, 1682, been acknowledged by the pope, and adopted throughout other Catholic countries in Europe, the Roman Catholic church would have been as harmless in its political tenets as any other sect of Christians. The first of those articles was, "That kings and princes are not subject to the ecclesiastical power as to their temporals; and that they cannot be deposed, directly or indirectly,

by the authority of the keys of the church, nor their subjects absolved from the allegiance and obedience, which they owe them." See *Dupin's Hist. of the Church*, Cent. XVII, ch. 19. But it is well known, that pope Innocent XI, as soon as he was informed of these proceedings of the French bishops, immediately called a consistory at Rome, in which these four articles or propositions, were formally condemned and ordered to be burnt. See the *Mod. Univ. Hist.* Vol. 26, p. 479. The Republic of Venice had, indeed, in the beginning of the seventeenth century, made a feeble effort to oppose the power of the pope to interfere in the political affairs of the state, but in the end, were obliged to yield to it. The power of the pope, therefore, in deposing kings, and absolving subjects from their allegiance, was generally acknowledged throughout the greater number of the Catholic states of Europe, until the emperor Napoleon, on the 17th of February, 1810, deprived the Roman pontiff of all temporal power, and obliged him to swear to the observance of the above-mentioned four propositions contained in the declaration of the French clergy, in 1682, as before-mentioned.

NOTE (Q) p. 224.

The author, in vindication of those observations he makes on the conduct of the Catholics, begs leave to add a quotation from a work, which he has once or twice before cited, and which has been always held in high estimation by the literati of all Europe. *Bayle*, in his *Historical and Critical Dictionary*, art. *Elizabeth*, makes the following remarks on *Moret's Dictionary*, in relation to the same article: "He should not have several times exaggerated the persecutions of the Roman Catholics, without mentioning the acts of rebellion which exposed them to that storm. A faithful historian, ought first to have observed their plots against the queen's government, and then the severe punishment she inflicted for those plots. The transposition of these two things, would be great unfaithfulness in a historian. What name then shall be given to *Moret's* conduct, who suppresses entirely those plots?" In another remark on the same article, he observes, "Elizabeth was forced, by reasons of state, to use severity towards Papists. Some lost their lives; a great number of others, either suffered the rigours of imprisonment or inconveniences of exile. The Protestants of England confess this; they do not deny the fact; but they maintain, that the wicked attempts of the Papists against the government, and against the queen, deserved such a punishment. You will be sure not to find this observation in the libels of the English Roman Catholics. You will indeed find the punishments, with all the rhetorical flourishes that can amplify them, but not a word of the seditious enterprizes which preceded, and were the cause of them. There are few relations, in which the order of events is not confounded. This confusion is not always produced by fraud; a too turbulent zeal, is sometimes the cause of it. An ill-conducted zeal, fixes the mind upon the hardships of persecuted virtue, and causes the provocation of the persecutors to be forgotten. If these two causes are not sufficient, dishonesty, which alone

would disorder the events, completes the confusion. However it be, I have observed, that the principal difference between the accounts of Catholics and Protestants, consists in the order of the facts : each party endeavours to give the first place to the injuries they have endured ; they make a long detail of these, and pass over slightly what they have done, by way of reprisals, or what they have suffered as a just punishment." These remarks of Mr. Bayle, may be presumed to have been made with the utmost impartiality. He was by birth a Frenchman, a son of a Huguenot minister in the south of France. For his fine talents and learning, he was made professor of moral philosophy and history, in the Protestant college of Sedan. But that college being suppressed by Louis XIV., about the time of his revocation of the edict of Nantes, and Mr. Bayle being offered a like professorship in the college of Rotterdam, in Holland, he became a resident of that place, and there passed the remainder of his life. Although he always professed himself a member of the reformed French church, (except during a temporary conversion to the Catholic church, at an early period of his life,) yet his writings gave his enemies some apparent grounds to accuse him of Deism, and some indeed of Atheism. He was certainly, what was called in England about this time, a *Free-thinker* ; and his writings, particularly his Dictionary, abound with severe sarcasms on the superstition and fanaticism of the age in which he lived. For this reason, his character was assailed by the bigots and fanatics, both of the Catholics and the Calvinists ; but for the same reason also, his opinions, like those of Mr. Hume, are to be respected as of the most impartial authority, in all historical controversies between these two sects of religion.

NOTE (R) p. 233.

This commission, of July 15th, 1624, has been passed unnoticed by most of the historians of Virginia, possibly on account of the shortness of its duration, though it is probable that the proclamation of king Charles, on the 13th of May, 1625, might have been considered as a confirmation of this commission. Upon the dissolution of the *second* and *third* charters of Virginia, under the judgment in the court of king's bench, on the *Quo Warranto*, king James thought it proper to erect a *provincial council* for "the management of the business and affairs of Virginia in England," which he did by this commission of July 15th, 1624. On the suggestion of this provincial council, he afterwards issued another commission, bearing date the 26th of August, (same year,) directed to Sir Francis Wyat and others, (which see in *Hazard's Collections*, Vol. 1, p. 189,) appointing a governor and council in Virginia. Both these commissions were intended, (as expressed in the body of them,) to be only temporary, until a new charter could, upon "advised consideration and deliberation," be passed, or "some other constant and settled course be resolved upon and established;" and each of them had a clause of limitation of time at the end of them, to wit: "to continue in force until such time as the king, by writing under his signet or privy seal, should signify his pleasure to the con-

trary.²² This latter commission to the governour and council in Virginia was not intended to be repugnant to the former commission, to the provisional council in England, for the former were to act "according to such instructions as they should receive from the king or his commissioners here," (in England,) "to that purpose or intent."

NOTE (S) p. 254, 265.

(Copied from *Hazard's Collections*, Vol. 1, p. 337.)

Order of Council upon the Dispute between the Virginia planters and lord Baltimore;

[VOTES OF THE ASSEMBLY OF PENNSYLVANIA.]

At the Star Chamber, third of July, 1633.

Present

Lord Keeper,	Earl of Danbye,
Lord Privy Seal,	Lord Viscount Wentworth.
Lord High Chamberlain,	Lord Viscount Falkland.
Earl of Dorset,	Lord Cottington,
Earl of Bridgewater,	Mr. Secretary Windebank.

Whereas an humble petition of the planters in Virginia, was presented to his majesty, in which they remonstrate, that some grants have lately been obtained, of a great proportion of lands and territories within the limits of the colony there, being the places of their traffic, and so near the places of their habitations, as will give a general disheartening to the planters, if they be divided into several governments, and a bar to that trade which they have long since exercised towards their supportation and relief, under the confidence of his majesty's royal and gracious intentions towards them, as by the said petition more largely appeareth. Forasmuch, as his majesty was pleased, on the twelfth of *May* last, to refer to the board the consideration of this petition; that upon the advice and report of their lordships, such order might be taken as to his majesty's wisdom should seem best; it was thereupon ordered, upon the fourth of *June* last, that the business should be heard the second *Friday* in this term, which was the twenty-eighth of the last month, that all parties interested should then attend, which was accordingly performed; and their lordships having heard the cause, did then order that the lord *Baltimore*, being one of the parties, and the adventurers and planters of Virginia aforesaid, should meet together between that time and this day, and accommodate their controversy in a friendly manner, if it might be; and likewise set down in writing the propositions made by either party, which was likewise accordingly done. Now their lordships having heard and maturely considered the said propositions, answers and reasons, and whatsoever else was alleged on either part, did think it fit to leave the lord *Baltimore* to his patent, and the other parties to the course of law, according to their desire; but for

the preventing of further questions and differences, their lordships did also think fit and order that things stand as they do; the planters on either side shall have free traffic and commerce each with the other, and that neither part shall receive any fugitive person belonging to the other, nor do any act which may draw a war from the natives upon either of them; and lastly, that they shall sincerely entertain all good correspondence, and assist each other upon all occasions, in such manner as becometh fellow-subjects and members of the same state.

NOTE (T) p. 313.

In illustration of this early contest between the lord Baltimore and his colonists, relative to the right of propounding laws for the assembly to enact, it may be observed, that about the same time, or a few years prior to it, (in 1634,) a dispute, somewhat similar to it, took place between the lord deputy of Ireland, and the Irish house of lords. It will appear, perhaps, a little extraordinary to Americans, (in the present state of their political sentiments,) when they are informed that an Irish statute made in the 10th Hen. 7th (commonly called Sir Edward Poyning's law, was enacted (as the statute expresses it,) "at the request of the commons of the land of Ireland," and was, during the 16th and 17th centuries, considered by the people of Ireland, as the Irish Magna Charta, by which, "No parliament was to be holden thereafter in the said land, but at such season as the king's lieutenant and council there first do certify the king under the great seal of that land, the causes and considerations and *all such acts* as (to) them seemeth should pass in the same parliament, and such causes, considerations, and acts, affirmed by the king and his council" (in England,) "and his license thereupon, as well in affirmation of the said causes and acts, as to summon the said parliament had and obtained." The Irish house of peers contended (in 1634,) that being the king's hereditary council, they could originate statutes to be sent to England, for the king's approbation, according to the statute; but lord Wentworth (the then lord lieutenant of Ireland) protested against the proposition. And indeed, the words of the statute seem clearly to have justified his ideas, as it expressly confines it to the lieutenant and his council, meaning his privy council. See *Leland's Hist. of Ireland*, Vol. 2, p. 108, and the appendix thereto, Vol. 3, p. 20; also 4 *Ibid.* 352. Thus lord Baltimore, an Irish peer, might have been led to construe his charter, like Poyning's law, vesting him with the prerogative of first propounding to the assembly such laws as were to be enacted: but whether he ever meant to contend for such a prerogative or not, it is certain, that the assembly after this session of 1637-8, ever afterwards exerted the right of framing their own laws, to be afterwards approved and assented to by the lord proprietor.

NOTE (V) p. 330.

As the original scheme of colonising Maryland, was evidently formed upon the plan of the feudal institutions, as they existed in England at the time of

the first emigration to this province, some few remarks in illustration thereof may not be deemed altogether unnecessary.

Although the feudal system might have been known to the Anglo-Saxons, it does not appear to have been ever introduced into England, in any considerable extent, prior to the Norman conquest. There were manors possessed by the Saxon thanes or lords, having their subordinate tenants holding under allodial or free tenures, yielding a certain rent, and parts of those manors reserved by those thanes for their own immediate rural use, similar to the *demesnes* after the conquest. But when that event occurred, William the Conqueror claiming all the lands of the kingdom by right of conquest, or, as some say, only those that accrued to him by right of forfeiture, for treason, in opposing his title to the crown, parcelled them out to his several principal followers or feudal chieftains, in such distributive shares as best pleased him. To several of them each he gave many hundreds of manors. (*Sullivan's Lectures*. lect. 17; and see an enumeration of the names of many of these chieftains, and the number of manors given to each of them. *Hume's Hist. of England*, Vol. 1, appendix II.) These Norman chieftains were called *barons*, a term (according to the learned Sir Henry Spelman, Gloss. verb. *Baro*.) which seems to have been first introduced into England by the Normans, or at least was not in common use there prior to their conquest of that kingdom; for although, as he observes, the word occurs in the translations of the laws both of the Danes and Saxons, yet the term itself was not known in their language, and consequently was not used by them in the original language of their laws, but was substituted by the Norman writers in their translations of these laws, for some other term in their language synonymous thereto. From the etymology of the term, it seems, according to him, to have originally signified a man. (*Baro*, native sensu, idem esse videtur quod Latinis *vir*. Gloss. verb. *Baro*.) By the ancient Francks the word *vir* was pronounced *ber*; hence this learned antiquarian conjectures that the word *baro* was originally synonymous with the Latin word *vir*, and thus to have been susceptible of various significations; as, simply—a man—a man of eminence—or a married man, in which last sense, it may be observed, that the word *baron* is the common term in use at this day in our law books. The term *baron* sometimes signified also a freeman, or freedman; (*Baro pro homine libero, et libertino*.—Gloss. *ibid*.) It was synonymous also to *freeholder*; (*Baro pro vassallo seu cliente feudali in genere, et quem nos libere tenentem vocamus*.—Gloss. *ibid*.)

Most of the barons, if not all, in the time of William the Conqueror, held the lands granted to them immediately of the king. They were thence called by ancient feudal writers tenants *in capite*, though afterwards, by the common law, those only were considered as tenants *in capite* who held immediately of the person of the king, as of his crown, and not of him, by reason of any *honour, manor, castle, &c.*, (*Co. Litt.* 103, a.) Hence, in lord Baltimore's charter, it is expressed, that he was to hold of the king, as of his *castle* of Windsor, and not *in capite*. Of these barons, in the time of the Conqueror, and

shortly after, some held more, some less lands, which differed not only in quantity but in value. This produced the distinction of greater and lesser barons,—*barones majores et minores*. But every immediate military tenant of the crown, however small his holding, was, by the principles of the more ancient feudal constitutions, a *baron*, and obliged to assist the king, not only with his personal and military service, if required, but also with his advice, that is, to attend in parliament. (*Sullivan's Lectures*, lect. 20, *Spelman's Gloss. verb. Baro*, p. 66.) But as this attendance was usually by *Writ of Summons*, for that purpose sent to them in the name of the king, it became a practice, in subsequent reigns, to neglect the lesser barons, and summon only the greater. Two reasons are assigned for this; first, that the number of barons in the kingdom being not less than thirty thousand, no house could hold them, if they were all to attend in parliament, (*Spelman's Gloss. verb. Baro*, p. 66, 67;) secondly, that attendance in parliament was considered by the lesser barons, who could not afford the expense, rather as a grievous burthen, than an honourable privilege. (*Sullivan's Lectures*, lect. 20.) Sir Henry Spelman adds an additional reason for this neglect; which was, that the kings of England had frequent quarrels with their barons, and were therefore glad of dispensing with their presence.—*Sic antiqua illa baronum dignitas*, (he observes,) *secessit sensim in titularem et arbitriariam, regioque tandem diplomate* (letters patent) *idcirco dispensata est*.

This learned writer further distinguishes the barons of England, as they existed at the time when he wrote, which was about the time of the first emigration to Maryland, into three different kinds, according to their origin.—“*Hodiernos itaque nostros barones, e triplici fonte, triplices faciamus: feudales seu prescriptitios, qui a priscis feodalibus baronibus oriundi, suam hodie prescriptione, (magis quam tenure,) tuentur dignitatem. Evocatos seu prescriptitios, qui brevi regio evocantur ad parlamentum. Et diplomaticos, qui regio diplomate hoc fastigium ascendunt.*

Feodaliū originem inter eos collocavero, quibus Williclmus senior Angliam totam dispartitus est, de se tenendam: quorumque nomina in Domesdei paginis recognovit.

Prescriptitios, ab ævo regum Johannis et Henrici tertii, caput extulisse censeo.

Diplomaticos initium sumpsisse perhibent sub Ricardo secundo.” *Spelman's Gloss. verb. Baro*.)

If the “Bill for Baronies,” before-mentioned, contemplated the creation of a rank of people in the province invested with the distinction of the honorary title of *barons*, it must have fallen under the first head of the above arrangement of that order of nobility. They would, most probably, have derived their several titles from their several apportionments of territory; and might therefore have been denominated *feudal barons*, or as some other writers express it, *barons by tenure*, so called, because the dignity and privileges were annexed to the lands they held. (*Sullivan's Lectures*, lect. 20.) They could

not be denominated *prescriptive*, time immemorial being essential to that distinction; but, as prescription in such case, implies a *feudal* origin, it would amount to the same thing. How far the statute of *Quia emptores* (18 Edw. 1. c. 1.) would have prohibited the lord proprietary from making these subinfeudations by grants of baronies, so as to enable such barons to regrant to others, to hold of themselves, is not for us to determine, with certainty, at this day. That statute was *dispensed* with by the king, in a clause in his charter to the lord Baltimore, so as to enable his lordship to grant and create tenures of himself; for, it seems, that in the time of Henry VIII, and probably at the time of the charter, it was held, not only that the king, by his royal prerogative, had a general power of dispensing with statutes, but in regard to this statute in particular, he had this power, *inasmuch as the statute was made for the advantage of chief lords*, and therefore, the chief lord, with his own assent, might thus be enabled to alien and create a tenure, to be holden of himself, agreeably to a maxim of law: *Quilibet renunciare potest beneficium juris pro se introductum*. (*Bro. Arb. Tenures*, pl. 65. *Bacon's Abr. tit. Tenure*, (B) pl. 11.) Thus the lord proprietor might have been enabled to grant baronies to hold of himself, but it would seem that the statute must have operated on the subinfeudatory grants of those barons, had such barons ever been created. It may be further observed, that under the principles of the feudal system, prior to the statute of *Quia emptores*, the *Barones majores*, especially counts palatine, (similar to whom the lord proprietary of Maryland might be considered,) having *jura regalia*, might have created barons of their counties palatine. *Speiman's Gloss. verb. Barones Comitatum. Sullivan's Lect. lec. 20*. But after that statute, which was in force at the time of this first session of assembly, such barons, as created by his lordship, must have been subject to the operation of the statute, and the words of the dispensation in the charter, seem to confine it to the lord proprietor. This observation applies as well to *manors as baronies*; in respect to the former of which, Sir William Blackstone observes, "It is clear, that all manors existing at this day, must have existed as early as king Edward I; for it is essential to a manor, that there be tenants who hold of the lord; and by the operation of these statutes, (viz. 18 Edw. 1. c. 1. 17 Edw. 2. c. 6; and 34 Edw. 3. c. 15,) no *tenant in capite* since the accession of that prince, and no tenant of a *common lord* since the statute of *Quia emptores*, could create any new tenants to hold of himself." 2 *Bl. Com.* 92. As these barons, had they been created by the lord proprietor, as well as the grantees of manors, to whom grants of manors were actually made by him, must have been at the most but *common lords*, they would have been, according to Sir William Blackstone, under the operation of the statute. This view of the subject, it would seem, ought to have settled those questions, which are said (*Killy's Landholder's Assistant*, p. 28,) to have arose in the province, relative to the rights of the lords or owners of manors, in opposition to those of the proprietary, as chief lord of the fee.

Manors (it seems,) were formerly called baronies, as they still are lordships.

(2 Bl. Com. 99;) though it is probable, that they never were known under that denomination until after the conquest, when they were distributed by William to his Norman barons, as before observed. From whence it is, that the domestic court, called a *court-baron*, which each lord or baron was empowered to hold within his manor, evidently took its title. These *common lords*, or owners of manors, seem (according to Sir Henry Spelman, Gloss. verb. *Baro.*) to have been included under the ancient feudal denomination of *Barones minores*, in contradistinction to the *Barones majores*, who were mostly *Tenants in Capite*. They were not considered as peers of the realm, and had no right to a seat in parliament. The inferior court just mentioned, is, however, by the English common law, an inseparable ingredient in every manor, (2 Bl. Com. *ibid.*) Notwithstanding this, and although the lord proprietary of Maryland made numerous grants of manors in his province, yet we are informed from good authority, as before observed, that no memorial upon record is to be found, of any practical use within the province, of either a court-leet or a court-baron. It is not impossible, but the before-mentioned legal objections, resulting from the statute of *Quia emptores*, might have prevented these inferior lords, the owners of manors within the province, from laying claim to all the baronial privileges annexed by the common law, to their manors, though their grants thereof might enable them to hold them as lands under socage-tenure.

We will close our remarks here, on this subject, with hazarding a conjecture on the probable intention of the before-mentioned "bill for baronies." The reader will recollect, that the colonisation of Ireland, in the reigns of Elizabeth and James, (which was a favourite pursuit of the latter monarch, as giving him an opportunity of displaying his talents for legislation, as well as literary composition,) had preceded that of Maryland but a few years. Sir George Calvert entered much into the schemes of king James, being his favourite secretary. There is, therefore, some ground to suppose, that his son Cecilus, created lord Baltimore, and having become an Irish peer, would promote institutions in his province, similar to those which had been, most probably, planned by his father and his patron, James, with regard to Ireland. Now, we are told from good authority, (*Sullivan's Lectures*, lect 26,) that even at this day, those divisions of a country, which in England are called *hundreds*, are in Ireland called *baronies*. We have authority also, for supposing, that this denomination of the divisions of a county in Ireland, took place either in the latter end of the reign of Elizabeth or first of James, while attempts were making at that time, to plant English colonists there. In *Spelman's Glossary*, (verb. *Baronia*), is the following passage: "*Baronia pro parte Comitatus quam Hundredum dicimus. Sic frequens in Hibernia, ubi Cornacia Provincia sub nostra memoria in Comitatus dispartita est: Comitatusque deinceps in Baronias dissecti, ut nuper etiam in Utonia factum intelligo.*" This part of his Glossary was first published in 1626, and we may suppose it to have been compiled not long before its publication. He died in 1641, at the age of eighty; so that the first division of Connaught into counties, which took place in the year 1790,

(*Leland's Hist. of Ireland*, Vol. 2, p. 247,) might have been *within his memory*. The first division of Ulster into counties, was also in the reign of Elizabeth, not many years afterwards, about 1585; but as the turbulence of the native Irish, which prevailed most in the northern parts of Ireland, prevented any effects from those divisions of that province, until king James's reign, at the time of his instituting the hereditary order of baronets, (about 1611,) it is probable, that Sir Henry Spelman, here, in the words "nuper etiam," alludes to the plantations which that monarch was *then* endeavouring to settle in Ulster. From hence results a strong probability, that the before-mentioned "bill for baronies," contemplated a division of counties in Maryland, similar to that adopted in Ireland, which it seems was analogous to those of hundreds in England; and not, perhaps, intended to create an order of nobility in the province, as might at this day be supposed. Although Leland, the Irish historian, has mentioned this scheme for colonising Ulster, in a very cursory manner, yet we may from thence collect some further incidents, analogous to lord Baltimore's plan for that of Maryland. "The lands to be planted, were divided in three different proportions; the greatest to consist of two thousand English acres, the least of one thousand, and the middle of fifteen hundred." "Estates were assigned to all, to be held by them and their heirs: the undertakers of two thousand acres, were to hold of the king *in capite*; those of fifteen hundred, by knight's service; those of a thousand, in common socage." "They had power to erect manors, to hold courts-baron, and to create tenures." We may here discern a considerable resemblance to the scheme directed in lord Baltimore's first instructions, to his lieutenant-general, of the 8th of August, 1636; which instructions appear to have been authorised, in this respect, by the 19th section of his charter.

THE END.

Thomas T. Stiles, Printer, Philadelphia

ERRATA.

In line 11, of the summary of contents of Sect. I, for "Castler's," read "Cartier's"—l. 4, p. 10, *dele* "Maryland" and insert "America"—l. 8, note in p. 12, insert "by" between the words "made" and "them"—l. 2d, note in p. 13, *dele* "is" between the words "certainly" and "without" and insert "being"—l. 4, 2d note in p. 16, instead of "tenure" alter it to "tenor"—l. 4, note in p. 21, *dele* "domination" and insert "denization"—l. 14, p. 34, instead of "admiral Cabot" read "admiral Chabot"—l. 10, p. 36, for "Cuodriers" read "Coudriers"—l. 12, p. 40, alter the word "thing" to "king"; and in the next l. the word "erected" into "created"; and in the last l. of the note in the same p. *dele* the figures "24" and insert "113"—l. 1, 1st note in p. 47, for "Barkhurst" read "Parkhurst"—l. 4, note in p. 89, instead of "consisting" read "counting"—l. 1, p. 122, for "Pontgravé" read "Pontrinecourt"; and in the 2d l. of the same p. for "Pontrinecourt" read "Pon-gravé"—l. 1, of Sect. VI, *dele* the y in the word "eighty"; that is, for "one hundred and eighty years" read "one hundred and eight"—l. 26, p. 159, instead of "There" read "This"—l. 24, note in page 181, instead of "Boyle" read "Bayle"—l. 26, same p. (181,) instead of "fantastic" read "fanatic"—l. 9, p. 184, for "not" read "now"—l. 5, p. 187, insert the word "as" between "with" and "ardent"—l. 5, p. 189, instead of "restraints" read "vestments"—l. 15, p. 192, instead of "blow" read "law"—l. 3, p. 202, instead of "for" read "far"—l. 4, of the contents of Sect. IX, instead of "successes" read "excesses"—l. 24, p. 241, for "probably" read "probable"—l. 17, p. 255, for "1682" read "1632"—last l. of p. 264, strike out the words, "the consideration of"—l. 11, p. 269, for "on" read "at"—l. 11, p. 282, instead of the words "to begin" read "beyond"—l. 10, note in p. 288, instead of "islands" read "island"—l. 15, p. 295, instead of "chapter" read "charter"—l. 7, p. 338, instead of "Meantys" read "Meautys"; and the same again in the last l. of p. 24, and in the 2d l. of p. 342—last l. of p. 351, instead of "on" read "as".

POSTSCRIPT.—As the distance between the press and the residence of the author, precluded him from any opportunity of revising the proof-sheets as they came from the press, it is hoped that the reader will excuse the foregoing list of errata, which have taken place in the printing of this volume; and he is solicited to make the alterations with his pen, in the places therein referred to.

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